Notable British Trials

Benjamin Knowles

NOTABLE BRITISH TRIALS SERIES

General Editor—HARRY HODGE

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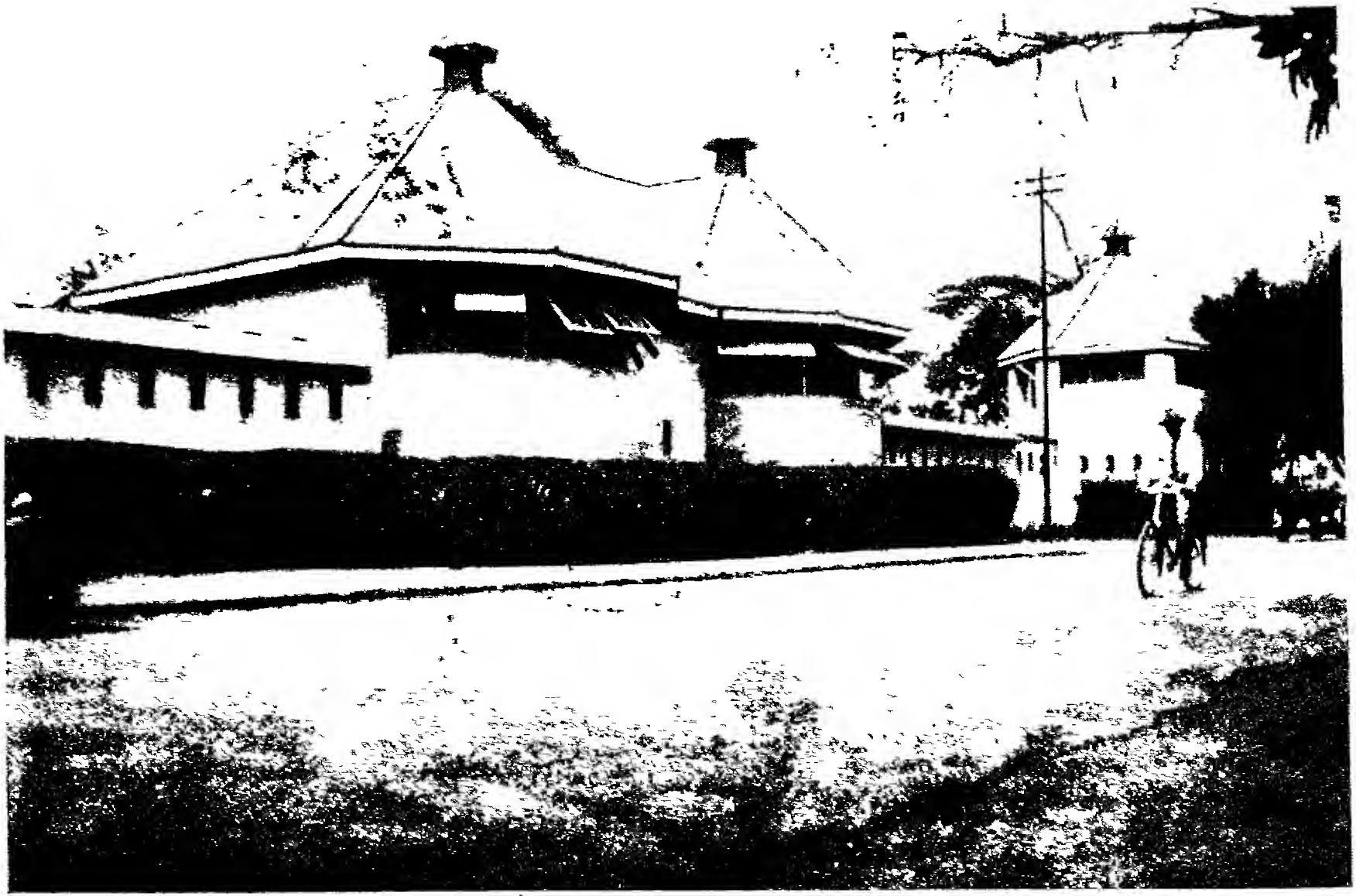

The Chief Commissioner's Court of Ashanti, Kumasi

Trial of

Benjamin Knowles

EDITED BY

ALBERT LIECK

AUTHOR OF "JUSTICE AND POLICE IN ENGLAND"

ILLUSTRATED

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Dedicated

TO

THOMAS VERE

EDWARD BUSHELL

AND TEN OTHER JURYMEN

WHO IN 1670, AS RECORDED ON A TABLET IN THE CENTRAL CRIMINAL COURT, LONDON, WERE BOLD TO DO RIGHT, AND, BY THEIR COURAGE AND ENDURANCE, ESTABLISHED THE INDEPENDENCE OF JURIES

PREFACE.

I HAVE to thank Mr. D. N. Pritt, K.C., for the loan of documents; Mr. W. Reeve Wallace, C.B.E., the clerk to the Judicial Committee, for reading the proofs of the Introduction to make sure my account of the law as to the Judicial Committee's functions was accurate; Dr. W. A. Fraser, M.C., B.Sc., M.B., Ch.B., of St. Albans, for reading the proofs of the medical evidence; Mr. F. N. Jackson, Hon.Assoc.R.I.B.A., of St. Albans, for preparing the plan of the bungalow from a rough sketch; Mr. A. C. L. Morrison for reading the introduction and making valuable suggestions thereon; a gentleman on the staff of the British Museum who took trouble to help me find the Gold Coast newspapers I wanted; and several more unnamed people who gave me other practical assistance.

I am indebted to the proprietors of the *Times*, the *Daily Telegraph*, the *Evening Standard*, the *Justice of the Peace*, and the *Law Journal* for their kind permission to reprint articles and reports upon the case.

ALBERT LIECK.

ST. ALBANS, *September, 1933.*

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INTRODUCTION.

I.

The inclusion of this trial in "Notable British Trials" marks a departure. Hitherto, the volumes have dealt only with trials in England and Scotland, and with the exceptions of Captain Kidd's case and that of the "Bounty" Mutineers, with crimes committed or alleged to have been committed within England or Scotland. Captain Kidd's offences being murder on the high seas in a British ship, and piracy, fell to be tried in England as much as if they had been committed there. The "Bounty" Mutineers were tried by a naval court-martial, not limited as to venue. Dr. Knowles, however, was tried and convicted in Ashanti on a charge of murder alleged to have been committed at Bekwai within that African dependency. His appeal was heard in London by the Judicial Committee of the Privy Council, and, upon the advice of that august body, the King in Council quashed the conviction.

When the inclusion of this trial in the series was under consideration, the question of what makes a trial "notable" was somewhat debated between the editor and a friend. It was said that the affair was a minor, and a rather sordid one, not worth putting on permanent record; and this expression of opinion, by one whose view was entitled to great respect, put the editor on inquiry in his own mind as to what constitutes "notability." It seemed to him, and seems, that to be notable, a case must have certain characteristics. First of all it should possess human interest, both as a psychological study and

as appealing to our emotional side; it should, further, illustrate some principle of law or some application of the law out of the common, present some complication of evidence, or be concerned with some technical problem such as identification of persons, handwriting, or weapons, like, for instance, the evidential value of the markings on the cartridges in the Gutteridge case[1]; and it should have either historical value, or have been notorious.

It is not pretended that these tests are final or exhaustive, but any case answering to them certainly comes within the scope of these volumes. The Knowles case does answer the tests. True it is that, looked at either as a crime or a blunder, it was a stupid transaction, performed in an atmosphere of futile bickering, but it reveals two persons, linked in that partnership, at once noble and narrow, magical and commonplace, which we call marriage, reacting to one another's dispositions in an environment only too likely to be destructive of the toleration and friendly forbearance which alone make that amazing institution possible.

Kipling speaks of the "blood" which is the "price of Admiralty." The price of Empire is heavier, not only blood, but the breakdown of health and morale. Consider the cross-examination of the witness Mangin:

"Your bungalow is nearly the same type as mine?—Yes.

"What is the bedroom temperature like?—Frightfully hot, you can feel the walls hot when you touch them.

"It is too hot to sleep in pyjamas in the afternoon?—Yes, I myself use only a towel."

Is it surprising that, in such conditions, tempers wore thin, that "a quarrel arose about nothing," that the wife on occasion struck the husband, and that he said (as he admitted) that he "would put a bullet through

[1] Trial of Browne and Kennedy. Edited by W. Teignmouth Shore. Notable British Trials Series.

her if she didn't leave the room "? The best men and women come through these things, but none need be harsh in judgment of those whose weaknesses, unsuspected before trial, lead to distortion under stress. Most of us, mercifully, escape the test, and should remain humble.

The psychological interest of the case lies in the dying statement of the injured woman, who appears to have made it too without that great inducement to forgiveness, the certainty of death. If the statement was in fact " the untruthful effort of a generous woman to save her husband from the consequences of a crime," " a sporting effort," it not only shows up a fine trait in her, but illustrates a commonly observed phenomenon, that when a quarrel, or a course of quarrelling, has reached its climax, sometimes, alas, a tragic climax, there is a reaction to a better state of mind. No sooner has man done or suffered the irrevocable than he would, if he could, undo the acts and unsay the words which led to it. If the statement represents the approximate truth, Dr. Knowles's early ill-considered readiness to take the blame is another curious psychological manifestation. Finally, the judge's reaction to the statement and the circumstances under which it was made, are also of interest. It is too often forgotten that the outcome of a criminal trial is the resultant of innumerable factors, acting and reacting the one upon the other. One of these factors, and not the least interesting to the observer who directs his attention to it, is the personality of the judge, *his* mental and moral make-up and reactions. The facts given in evidence are only the raw material, which is woven into its final pattern by the rapid shuttles of thought, moving in quick and subtle interchange throughout the hearing.

A great principle of law was involved in the case—the right to trial by jury. The Judicial Committee professed themselves unable to form a conclusion upon the question

whether a jury should have been used in this instance, on the ground that the practicability of empanelling a jury depended on local circumstances which could be determined only locally; and they refused to sanction as a ground of appeal that there was no jurisdiction in the Court of trial in Ashanti to try the case without a jury; but this need not preclude us from debating a constitutional issue of high importance, one that reaches out not merely to Ashanti, but to other places whither the Englishman has carried his law. Not lightly is the conclusion to be reached that a British subject in British lands is lawfully triable for his life without a jury and debarred from the assistance of counsel.

The last of our tests to determine notability we have said to be notoriety or historical value. The Knowles case has both. While it was certainly not one of the most notorious trials, it aroused a great deal of discussion, and —one very definite criterion of notoriety—it was regarded as " copy " by the evening newspapers. The case is, too, of historical value. The right to trial by jury has bulked very large in English history. It produced an erroneous interpretation of Magna Charta which lent to that wonderful document a mystical virtue not inherent in it, and produced controversies which furnish unending matter for constitutional histories and law books.

The Englishman in the street thought he carried with him his right to a jury when he left his streets for the wilds. In one way or another he will see to it that he does.

The jury in criminal cases is indeed an institution in recent times much trenched upon. In England the immense majority of offenders are now tried summarily. Charges which may blast a man's reputation, can be adjudicated upon by two justices of the peace, and the appeal be only to other justices of the peace. Justices, in their Petty Sessions, can sentence to a year's or, in

at least one instance, two years' imprisonment; and the law as it is being developed in the twentieth century is ever widening their jurisdiction. But the most drastic advocate of economy, the most careless social "reformer," would shrink from trials on capital charges without the twelve, chosen as men and women, and not as persons selected to deal with " the usual man in the usual place." Their very number is a root of ancientry; their unanimity a primitive requirement long overridden in other departments of human activity; their function, if worthily performed, the greatest safeguard of the individual ever stumbled upon by a not too clear-headed race.

Benjamin Knowles.

II.

Ashanti is a territory of nearly 25,000 square miles, with a rapidly growing population, on the census of 1931, approaching 600,000. It lies between the fifth and tenth parallels of northern latitude, and is largely covered with primeval and almost impenetrable forest.

The inhabitants are mostly of pure negro type. Their religion is primitive, and, like most primitive religions, very complicated, and understandable with difficulty by the European mind. Thus, Sir Frederick Hodgson in 1900 thought that the Golden Stool was a thing to sit upon, whereas it was, to the Ashantis, the repository of their national soul and the source of kingly wisdom, as sacred to them as a reliquary to Catholic Christians. Unlike many negro races, the Ashantis exhibit repugnance to Islam, but a number have become Christians.

The Ashantis were an excessively cruel race. They used human sacrifice, in which they often inflicted atrocious suffering. They would, for instance, take a helpless prisoner of war, bound hand and foot, and, that he might not curse the king, skewer his tongue with a knife thrust through his cheeks. On his chest would be placed the head of some earlier victim into whose glazed eyes he could gaze and think upon his own frightful fate, while it was being dealt out to him in instalments of torment. Others of their sickening cruelties are impossible of description; without description impossible of imagination by reasonably clean and sane people.

But the impact of European ideas that followed the annexation at the beginning of this century has brought about very great changes; after some initial mistakes, change is very sensibly being operated largely through native institutions and by native agency. It is the present-day conception of dealing with races on different cultural planes not to break up their native organisa-

tion and replace it by alien institutions ill suited to their racial genius, but to leave them to develop their own under such friendly guidance as is possible. " Indirect rule " of native States was the conception of that great colonial administrator, Lord Lugard. For some idea of the careful work on which it is being based, see an article by Captain Rattray in the *Journal of the African Society* for January, 1931.

It has always to be remembered that many of the practices which horrify us, some so intolerable that they have to be suppressed at all costs, grew up naturally, tares with the wheat, and grew, too, out of native conditions, spontaneously and inevitably. Human sacrifice ought not to shock us too much. It was a repugnant feature of the Druidism which flourished in our own primeval forests. Fierce cruelty has ever been the note of primitive warfare; it recurs on occasion in the armed conflicts of civilized men, and the competition of tribes, where victory will go to the fiercest and empire to those who can inspire most terror, leads, without escape, to cruelty of the worst. Those who get dominance seek to hold it by the same means. We need not too much lament the wickedness of those who followed the ways which lay open to them. The only useful attitude to adopt towards the less amiable characteristics and practices of undeveloped races is that of the sane and careful anthropologist already quoted, to whose writings I am indeed indebted for saving me from making some superficial observations on Ashanti. He seeks to understand, and understanding brings forbearance. That should be the attitude of the criminologist to the criminal and his crime. *Tout comprendre, c'est tout pardonner.* Explanation, indeed, is not always excuse, but it saves us at least from futile and often unfair reprobation of others essentially no worse than ourselves.

In the *Journal of the African Society* for April, 1928, there is an article upon present-day Ashanti which shows

white and black at work side by side turning the land into a decently governed place where men and women may lead useful and happy lives. Transport, education, and, above all, sanitation have transformed the whole place.

But the country is not a white man's home, and if some of our exiles who serve in its alien and depressing atmosphere break down and behave badly, it should not surprise or shock us unduly. How terribly, at its worst, Africa can demoralise a decent gentleman is exhibited in the history of Roger Casement, whose fate as a traitor was probably brought about far more by his wrecked morale than by his overt acts of treason.

Kumasi (formerly spelled " Coomassie ") is the capital of Ashanti. In 1931 its population was counted as 36,200. This figure included some hundreds of Europeans and a number of Syrians.

Railways run from Kumasi to the coast at Sekondi and at Accra. Bekwai, the scene of the shooting of Mrs. Knowles, is on the railway from Kumasi to Sekondi. One of the native witnesses fixed the time of his return to Dr. Knowles's bungalow as 4.30, " the time the train came through from Sekondi to Kumasi."

There is an extensive system of motor roads and a public motor transport system.

The history of the country is interesting. It is bound up with that of the Golden Stool, which early in the eighteenth century was brought down from the sky by art magic to rest on the knees of the king at Kumasi; it being the intention of the sky god, as announced by a magician in his confidence, to make the Ashantis a great and powerful nation. The Golden Stool thenceforward contained the soul of the Ashantis. By the virtue of the Stool, or their belief in that virtue, the Ashantis waxed into local dominance. At last they reached the sea—and met the British. After that there were many wars, in which all the honours were not on one side. Sir Garnet Wolseley marched to Kumasi and burned it in 1873.

Colonel Scott again occupied Kumasi in 1896. Thence King Prempeh went to the Seychelles, whence he returned in 1924, a Christian in European clothes, to take the headship of the Kumasi tribe and to do good and solid work.

Ashanti was annexed to the Gold Coast Colony in 1901. Its final pacification was due more perhaps to Captain Rattray than to any one else. A man of tact and ability, he took the trouble to discover the true inwardness of the Ashantis' attitude to the Golden Stool, and all the other person stools to which the natives "chain down their souls," and thereafter white and black got on better together.

This brief outline a little suggests the environment in which Dr. and Mrs. Knowles worked out their fate. It shows the background of the law which we shall have presently to discuss. The history of the land, as conquered and not settled, is material on one issue in the jury question, a point to which we shall return.

Leaving the law aside for a moment, we can already see that we are concerned with a community into which it might well be inadvisable to transplant complicated pieces of the mechanism of civilisation, without long and careful preparation, and perhaps never.

The jury system has worked not too badly in England and Scotland, very imperfectly in Ireland and the United States. It has exhibited some surprising and perhaps disconcerting features when brought into use in certain Continental countries. It is in many countries now under a cloud, and even in the country of its origin is showing signs of decay. Many of us fervently hope the decay will be arrested, but there is no stopping the tides in human affairs. Certainly, however we may admire the jury, we must confess it to be unsuitable for world-wide use.

Much the same is to be said about legal aid in criminal trials. Worked in a suitable atmosphere, within reasonable limits, our system of giving a "mouthpiece" to

the litigant tends strongly to the doing of justice. But its failures are not infrequent even in this country. In America, where, on the testimony of the legal profession itself, advocacy tends to degenerate into a dog fight, we see its evil side rampant in a civilised and exceptionally intelligent community. To introduce among a primitive race argumentative, and sometimes dishonest and ignorant, legal practitioners, would be to let loose an agency of serious mischief. The ordinance which prohibited solicitors or barristers appearing in the Ashanti Courts was enacted in 1906, to define the practice which had been followed since British administration of Ashanti began.

"There are," said the Colonial Secretary, replying, on the 4th of December, 1929, to a question in the House of Commons, "weighty reasons in the interest of the native populations for the retention of this prohibition." Its relaxation was even then under consideration, but "the matter is obviously one which will require lengthy and careful consideration." We need not perhaps attach too much weight to the absence of protest or to the dislike of the Kumasi chiefs to the proposal to admit lawyers, and we can be quite sure that the education being disseminated amongst the Ashantis will work to its usual consequences of making them discontented with conditions their forefathers accepted as a matter of course. Quite short reflection by any one conversant with the history of the contact of races on different planes of social development will, however, be sufficient to satisfy him that in this matter to hasten slowly is to make best speed.

It would be amusing, were it not sometimes so tragic, to see, as we do again and again in the history of the contact of the British with other races, how devotedly they apply themselves to educating the people under their tutelage, and then how disconcerted they are when education produces a demand for social and political

equality between pupils and teachers. The problem is always complicated by the fact that the demand comes from a comparatively small and select class, for something which would be unsuitable and dangerous for the rest of the community. How the difficulty is to be met remains to be seen. It is something that the difficulty itself is now clearly perceived. In the case of Ashanti the *Gold Coast Independent*, most vehement for "brothers and friends in Ashanti groaning under the sting of iniquitous and oppressive laws," claims only one in ten of the population as educated.

Meanwhile, it is certainly wrong that members of an advanced race amongst the people they serve should suffer deprivation of all their legal and constitutional rights. The Knowles case, if it does nothing else, calls attention to this matter in a striking way.

A police magistrate of seven years' experience, acting as circuit judge, may, by his acquaintance with native modes of thought, be the best available, and even possibly the intrinsically best, tribunal for dealing with native cases.[1] The editor, writing far from the scene and without special knowledge, is not competent to express an opinion upon that, but it is clearly wrong that a single judge should be allowed to try a fellow Briton for his life, without legal aid and without an appeal to any higher Court in the country of trial. Events indeed showed the undesirability of the mode of trial. For the judge failed to direct himself sufficiently upon the law, and the execution of a capital sentence for what was, if committed at all, more likely than not the offence of manslaughter was only averted by the good sense of the Governor of the Gold Coast Colony. We shall return to the question of "murder or manslaughter" later, and also to the possible alternatives to the mode of trial actually adopted.

[1] Question and answer in House of Commons Parliamentary Debates 25th November, 1929.

III.

Why do we feel outraged at the spectacle of Dr. Knowles being tried for his life without a jury? The question opens up a considerable subject on which we can but throw out a few thoughts. Those who know will probably allow their justice; those who do not will perhaps be provoked to think a little about a great institution, so intimate a part of our social machinery that it is taken for granted. The Englishman has still a profound sentiment in favour of trial by jury, which all the while is gradually, by processes of which only a few are aware, being withdrawn from the English system of criminal trials. He regards it as a bulwark of personal liberty, which it is, and as a symbol of British superiority, which it is not; for other countries also secure to their citizens, by means suited to their national genius, such measure of justice as is possible for fallible human beings. He smiles loftily at the vagaries of the Continental jury, whose members, moved by sentimental considerations to ignore the logic of proof, return verdicts of not guilty in favour of those shown on strong and unrefuted evidence to have slain for certain motives of passion considered by their fellow-citizens not to be altogether reprehensible or even unamiable. It is merely a matter of national and social outlook, and drastic criticisms can be made of our English ways. Indeed, some people, looking on the surface of things, find it easy to scoff at the English jury.

A wiser analysis would reveal that beneath apparent folly sometimes lies real sense. Nonsense, indeed, is often only sense carried to extremes. These people from the street bring into the Courts of justice that very factor of illogical humanity which is one of the saving graces of mankind. Professional judges "weigh" the

evidence. So artificially have they done this that for centuries, in this country, they refused to hear the testimony of parties to the case, the very people who knew the truth. Only since the closing years of the last century has a person accused had the right to tell his own story under the same sanction as other witnesses, though he is often the only person who *knows* whether he is guilty or not. The professional judge in England has hedged the giving of evidence with cumbrous and complicated rules, which work in practice only because they are largely ignored. With scales carefully maladjusted and weights oddly falsified, with a mind trained to bring logic to bear on human conduct which is always illogical, the man whose court is his workshop, by whom the accused tends to be regarded as a piece of material on the work-table, is ever in danger of becoming mechanical, a producer of decisions based on facts artificially selected, and therefore not truly balanced.

To him enter twelve men and women, with minds fresh and unsubdued, to his medium. They look at the human problem before them, not entirely as one of formal proof, and they do right. Truth is elusive, often less apt to reveal itself in the written or even the spoken word than in a glance or a movement, in an involuntary emphasis or an accent. The jury, too, can go to the deeper truth that underlies the factual truth presented to them, and in what seems their perversity they often do substantial justice.

There are dangers of course. The jury lets off many guilty people who ought to be punished, but it can and does let off other guilty ones who ought not to be punished. This is a dreadful heresy to the lawyers, many of whom hold firmly to the fundamental fallacy that the doing of justice is an exact process, instead of the rough and ready approximation which is all that mankind ever achieves in any field. The assumption is for others of them not so much a fallacy by which they

are themselves deceived as a façade to a temple whose frequenters must be given no occasion of doubt. The jury, the lay element chosen at random, treading unfearing where the angels of the law see sacred earth, has a tonic effect on the angelic host itself. The jurors humanise the judge. They begin with him when he is at the Bar. He has to seek to understand their mentality. His development into a narrow specialist is constantly being hampered, and his outlook widened, by his being forced to take account of the fact that mankind is immensely greater than its sections. The confines of the Court expand into the illimitable ranges of the soul.

Thus it comes that the common Englishman is right after all. His jury is a valuable possession; though his partiality is a little blind, it is justified. He began to build his faith when the jury was composed of his neighbours likely to know the truth of their own knowledge. This, to the modern lawyer, sounds ridiculous, but that is because he takes little or no account of social changes. Men in a small community satiating their curiosity on the spot were in a very different category from men sleeping in a dormitory suburb and collecting their information from a news-sheet in a train. Sir Cecil Walsh, in "Indian Village Crimes," remarks that "Common rumour in an Indian village, especially in the case of a mystery of old standing, although mixed with much which is palpably unreliable, is very often not far from the truth." It is to be supposed that the Anglo-Norman township or hundred was much the same as the Indian village.

Not only is the province of the jury being continually filched from by the intrusive justice of the peace, but the jury itself, for reasons utterly beyond the control of jurymen, is being made less efficient. The juryman is no longer one who has poked his inquiring nose into the affairs of his own small and largely isolated com-

munity. He or she (Eve now being added to Adam as a rib of the law) is too often a person partly informed on the case to be tried; informed usually in the worst possible way, by the printed word sub-edited into misleading patchwork. The remedy is easy: the exclusion of the press from preliminary inquiries into crime and a small adaptation of the law as to challenge of jurors.[1]

So we come to the conclusion that it does matter, and matter very much, whether a Briton be tried by jury or not. He is wise to claim trial by jury as his right, because it is a very valuable right indeed.

How far does he carry this right with him, when in his country's service, or for pleasure or profit, he departs beyond the four seas into the possessions which he and such as he have annexed to the British Crown?

The Englishman carries his personal law with him to many places, in varying degree perhaps to all. That he carries it into the countries he settles it needed the revolt of the American colonies effectively to demonstrate. Now the principle is well established that, in the case of a settled colony, the fundamental or common law of the colony is the English law as existing at the date of the settlement, as modified by subsequent legislation of the Imperial Parliament relating to that colony.

In the case of the Gold Coast and other African settlements the rule had to be altered by Act of Parliament. The settlements were so tiny and the native populations so huge that ordinary representative institutions were unworkable, and in 1843 an Act was passed giving power to the Queen in Council to legislate for those settlements. The British Settlements Act, 1887, which repealed the Act of 1843, is the present authority for that practice. The existing Orders in Council delegate large powers of local legislation, and it is by virtue of those powers

[1] See an article by the present editor in the "Justice of the Peace," for 31st October, 1931.

that the Criminal Code and other of the laws of the Gold Coast Colony relevant to the present case were enacted.

In the case of a conquered territory there is no carrying of the English law by the colonist. The Crown has there absolute power of legislation by Order in Council. With regard to Ashanti the power was exercised by an Order in Council which recites the conquest and annexation of Ashanti, and then delegates to the Governor of the Gold Coast Colony the exercise of all the powers and jurisdiction of His Majesty in those parts. Powers of pardon and remission of sentence are conferred upon him by Letters Patent under the Great Seal dated 23rd May, 1925.

The Governor of the Gold Coast has exercised his legislative powers partly by express ordinance relating only to Ashanti, and partly by making applicable to Ashanti various laws of the Gold Coast Colony. Thus the Criminal Code of that colony is applied to Ashanti.

The matter seems more complicated than it really is. If the laws in the Appendix be examined, and counsel's arguments followed by referring to them, the thing straightens itself out.

There seems to be no doubt that a trial by jury is within the theory of the law in Ashanti; and that, if it is not practicable, a case can, with the concurrence of the Governor of the Gold Coast, be referred to the Supreme Court of the Gold Coast Colony for trial. It is not fair, so far from the scene of action and without knowledge of the local circumstances and difficulties, to say whether a trial by jury at Kumasi is or is not practicable, but it seems fairly clear that no one thought of it as being in any way on the order of the day. Use and wont is the greatest of practical law makers, and probably no trial by jury was to be had for Dr. Knowles just because no trial by jury had been had for any one else.

But the responsibility of trying an Englishman or a Scotsman for murder cannot have arisen frequently, and one would have supposed its very unusualness, and the heavy responsibility involved, would have led to a careful examination of the law to see whether it was not possible to try Dr. Knowles in a way more consonant with practice in his home country. It certainly was possible by " reference " to the Supreme Court. There was of course an unpleasant dilemma before the Ashanti authorities. If they tried Dr. Knowles otherwise than by the mode of trial usual for natives, they aroused complaint of inequality of treatment. If they tried him without a jury, they furnished ground for agitation for a change of practice, and ran the risk of obloquy at home. In the circumstances the best course might have been to send him to England for trial, where, under sec. 9 of the Offences against the Person Act, 1861, there is jurisdiction to try a British subject for murder or manslaughter committed abroad.

IV.

On the 20th October, 1928, there was a luncheon party at Dr. Knowles's bungalow. There were present, besides the doctor and his wife, Mr. Thorlief Mangin, the District Commissioner; Mr. Ernest Bradfield, an Inspector of Works in the Public Works Department; and Mr. Walter Grove, an agent for the business house of Millers, Limited. The guests left between 2.15 and 2.30 p.m. The party was apparently quite a pleasant one. Certainly none of the guests noticed anything unusual.

At 4.30 p.m., Sampson, one of the native servants, heard a shot and heard his mistress cry out. He ran at once to Mr. Mangin. The latter immediately went round in his car. He stopped outside the front door and called out to the doctor, who came out of the bedroom with a towel round him. A towel seems, from the evidence, to be the usual siesta attire for white gentlemen in that torrid climate. Mr. Mangin apologised to the doctor for calling him out, and inquired if there had been an accident. Dr. Knowles, who appeared to be normal, said it was all right, and Mr. Mangin went away.

Sampson again heard Mrs. Knowles cry out. He seems to have been thoroughly alarmed and hurried off once more to the District Commissioner. Mr. Mangin, however, had gone to tennis, so Sampson "told his boys that Missus cry too much, and when he came he should come and see her."

Mr. Mangin had the message on his return to his bungalow. He seems to have been considerably embarrassed, and contented himself with writing a note:

"Dear Doctor,

"Your boy has been over three times to see me and has evidently got wind up. Naturally I cannot butt

into what is not my concern, but if I can be of any assistance you know that you just have to say so.

" Yours,

" T. R. O. M."

This note Mr. Mangin sent by a native bearing the name Karikari Kweku Karikari. It was received by Dr. Knowles, but he did not read it, " as no one could help me and I didn't wish to be bothered."

The next intervention of the outside white world was on Sunday, the 21st October. On that day Mr. Mangin went to Kumasi and saw Mr. Applegate, the Provincial Commissioner, and Dr. Gush, the surgeon specialist there. All three went to Bekwai, Dr. Gush motoring over first and calling on Dr. Knowles about 4 p.m. He said he found Dr. Knowles in pyjamas. He was mentally confused and suffering from old standing effects of alcohol. Dr. Gush said he had been told there had been an accident, and the reply was, " There has been a domestic fracas." Dr. Knowles showed his left leg covered with bruises, which he said were from blows given him by his wife with an Indian club. He added that his wife had been nagging him on the previous afternoon and he had told her that if she did not leave the room he would put a bullet in her.

There seem to have been in this unhappy household not infrequent threats by each of shooting the other, and on more than one occasion actual shots were fired.

There is no doubt that, at any rate in the circumstances of their life in a tropical country, these two persons were ill adapted to one another. Affection seems to have been by no means absent, but they got on one another's nerves. This is the testimony of Mr. Mangin:

" Do you know anything about their relationship?—To a certain extent. I should say they were very fond of each other, but Mrs. Knowles was a very excitable woman. I saw a great deal of them. I have seen Mrs.

Knowles get on the accused's nerves. I could see that by his expression and general attitude."

The accused himself said, "I was very fond of her and she was fond of me," and when she left him for the hospital she kissed him good-bye. If the judgment of the trial judge is correct, she did her utmost to save him from the consequences of the act which caused her death. Yet she had apparently struck him and bitten his ear, and on his account, "She used to think an Indian club as sufficient to stop an argument." She was no doubt a hysterical woman, going to pieces under the strain of life and the way she had taken it.

His condition does not seem to have been any better. He was in a dreadful state after the shooting of his wife. No doubt recent events and a position he considered desperate partly accounted for this, but the witnesses make it evident that, apart from the catastrophe, he was in a morbid and miserable state. Even on his own showing he was dangerously overwrought and irritable before the fatal Saturday.

It nowhere appears in the evidence how long the blows with the Indian club were before the shooting, and they were not claimed by the accused as being the immediate physical violence which might, in certain circumstances, reduce the crime of murder to that of manslaughter. The only immediate provocation alleged is nagging, and the only admission is of a threat.

Dr. Gush asked to see Mrs. Knowles, and her husband made no objection. She said she would like to see Dr. Gush, who then went in and, with her permission, examined her wounds. They are fully described in his evidence, and were extremely serious. In fact Mrs. Knowles was a dying woman.

Asked how the accident had happened, she said she had been examining her husband's revolver; that she put it on a chair, and shortly afterwards sat down upon it. She tried, she said, to remove it, but the open-work sleeve

of her dress caught in the trigger and the firearm went off.

Dr. Knowles said, " Speak the truth," and she replied, " Shut up, Benjy. You don't know what you are talking about."

Mrs. Knowles was a little later removed to hospital in Kumasi, where her wounds were treated. They had been previously treated by Dr. Knowles with iodine, which treatment, combined with rest, was correct, though not necessarily the fullest treatment possible.

She died at 1 a.m. on the 23rd October.

Meanwhile, Mrs. Knowles had made a dying deposition, in accordance with the local law, which closely follows the English law in that matter. This deposition was read at the trial. It repeated in substance the story she had told Dr. Gush of the accidental discharge of the weapon.

Dr. Knowles was present at the taking of this statement. When the Bible was being passed for Mrs. Knowles to take the oath, he said, " Now, my dear, tell the real truth." She said, " I shall tell the real truth." Whether she did or not was, of course, one of the principal issues in the case.

What really happened when Sampson and his fellow-servant, Bondo Fra Fra, heard a shot and their mistress cry, " Ah! Ah! Ah! " about 4.30 on that Saturday afternoon?

Mrs. Knowles, who *knew*, better perhaps even than her husband, said she accidentally shot herself, and that Dr. Knowles could not have done it as he was in bed.

Dr. Knowles, on his own account of what happened, told her that he would " take all the blame for it," and in cross-examination he explained he meant " the blame of firing the shot." He certainly considered himself as being in grave danger if his wife died. " Good-bye, Mr. Hansen, if you don't see me again " (drawing his hand across his throat). " It is a bad show, if she rolls up;

I am afraid I am for it. If my wife rolls up, I will be hung by the neck until I am dead." But he explained his desire to take the blame as due to anxiety to spare her cross-examination.

There is a point in Dr. Gush's evidence where the expert cannot help feeling that he knew, or had known, more than he said at the trial, for he is greatly pressed, as though to recollect something he had previously said, but now omitted.

"After Dr. Knowles had told you that he had said he would put a bullet through his wife if she didn't leave the room, did he say any more?—No.

"Has the accused at any time made any further statement to you about the affair?—I don't remember any other."

Compare this with the cross-examination of Dr. Knowles:

"Did you tell Dr. Gush then you fired the shot?—I made some rambling statements under the influence of drugs, but I did not say I fired the shot. I do not remember personally what I said.

"Do you know Dr. Gush made a statement in the police station?—No, I would not be surprised.

"Would you be surprised to learn that Dr. Gush at the police station said ——." (Prosecution stopped, and question ruled inadmissible.)

Moments such as these occur in criminal trials. Sometimes they are intensely dramatic. Zola, in "La Bête Humaine," describes one such: "*Un silence de mort s'était fait dans la salle, une émotion venue ils ne savaient d'où, serra un instant les jurés à la gorge c'était la vérité qui passait, muette.*"

One feels that in the Knowles case, too, the dumb truth may at this point have fled from the case.

The English law of evidence can sometimes, by its very attempt at fairness, succeed most effectually in suppressing the truth. The judge was acting eminently

properly in shutting out the question to Dr. Knowles. Had the Commissioner of Police been more persistent with Dr. Gush, the judge would have had to have checked him, for only if the judge thinks the witness is hostile or " adverse " can he permit a previous statement to be put to him in so many words. The witness may be wilfully suppressing something or he may be merely forgetful. Effectively to prompt his memory or awaken him to a sense of his responsibility is forbidden, unless he has obviously done his best to defeat his examination-in-chief. It is a defect in our law of evidence, for from whom is the truth more likely to come, from a decent man who has had a lapse of memory or a desire to spare the wretched, or from a witness who deliberately seeks to impede the course of justice, often from the most unworthy motives? It may be useful to prompt the former; the latter will remain untruthful, and the utmost effect of his contradictory statements will be to cancel one another.

Our law of evidence has been built up by generations of judges distrustful of the capacity of juries, and it has ended by holding the judges themselves in fetters. Of course there should be limits to what is permitted, but judicial discretion in this matter requires enlargement.

The reader must himself decide between the version of the wife and that of the husband. It is not an editor's duty to do that. But accident or homicide was not the only issue. If homicide it were, it is much more likely to have been manslaughter than murder.

The law as to murder and manslaughter is much the same in Ashanti as in England. The " intentionally " of sec. 237 of the Gold Coast Criminal Code (which applies to Ashanti) is the " wilfully and of malice aforethought " of the English common law. The causing of death " by unlawful harm," of sec. 236 of the Code, is much the same as the killing while doing an unlawful

act short of felony, which constitutes one form of manslaughter in England.

The Gold Coast law as to the reduction of murder to manslaughter is contained in secs. 238 and 239 of the Code, but it is not necessary to pray it in aid, for on the theory of the homicide in the present case being manslaughter, what is suggested is a death caused by the reckless firing of a pistol without intent to hit any one, merely as a demonstration of annoyance and a discharge of wrought-up nerves. Here English law rules the point. The common law as it stood on the 24th July, 1874 (see sec. 14 of chapter 158 of the laws of the Gold Coast Colony), applies in the Gold Coast Colony and in Ashanti.

In that law murder is unlawful killing with malice aforethought, express or implied; manslaughter is unlawful killing without such malice. Where the killing occurs while the killer is committing a felony, at least if it is a felony involving violence, it is murder. Where the killer while he is doing an unlawful act not amounting to felony, accidentally kills, it is manslaughter only.[1]

The most extreme case in favour of the accused is *R.* v. *Errington*, 1838, 2 Lewin 216. The deceased, being in liquor, had gone at night into a glasshouse, and laid himself down upon a chest. While he was asleep the accused, several men, covered and surrounded him with straw and threw a shovel of hot cinders on his body. The straw ignited and he was burned to death. The judge, after directing the jury on the distinction between murder and manslaughter, told them that if they believed the prisoners really intended to do any serious injury to the deceased, although not to kill him, it was murder; but if they believed the prisoners only intended to frighten him in sport, it was manslaughter. The jury

[1] See the discussion in Archbold's Criminal Pleading, 28th edition, pages 889 *et seq.*, basing on the old authorities.

took a merciful view and returned a verdict of manslaughter.

If Dr. Knowles fired the shot recklessly, but intending it to go wide, and it struck Mrs. Knowles so that she died, his offence was manslaughter. If he fired it wilfully, intending to strike her, his offence was murder. If his wife accidentally set the pistol off and died of the wound received from the shot so discharged, her death was death by misadventure.

Unluckily the Circuit Judge treated the matter as if there were two alternatives only—murder and accidental death. This misdirection or failure to direct was the ground of the quashing of the conviction. It would have sufficed in an English case in the Court of Criminal Appeal. By basing their judgment on this ground their lordships were a little inconsistent with their own previous practice, because, as they have repeatedly said, they do not sit as a Court of Criminal Appeal. We shall, however, return to this point when dealing with the appeal itself.

V.

Before Mrs. Knowles died, Major Smith, the Acting Commissioner of Police, and Mr. Morris, the Assistant Commissioner of Police at Kumasi, went to Dr. Knowles and told him he would be " detained on suspicion of causing serious harm to Mrs. Knowles," and cautioned him that " he need not say anything, but if he did it might be used in evidence against him." Dr. Knowles said, " I suppose I am under arrest." Major Smith said, " No, I am merely detaining you on suspicion of causing serious harm to Mrs. Knowles."

This distinction, which some police forces in England also make, between detention and arrest is, in law, meaningless. English law knows of no state intermediate between freedom and being in custody. The Royal Commission on Police Powers and Procedure is emphatic upon the point. In their report, 16th March, 1929, they said:

" We have received clear evidence of practices in certain police forces which are known as ' detention ' and which are deliberately differentiated from the state of affairs which follows arrest. They are regarded as something less than arrest, so that the ordinary consequences of arrest are not present. These sophistries are all swept away in a memorandum prepared for us by the Home Office.

" The word ' detention ' is not a term of art, though it is used by some police forces with a special restricted significance not recognised by other forces. The technical term is imprisonment. Any form of restraint by a police officer—or indeed any one—is in law an imprisonment, and if the police officer has acted wrongfully an action for false imprisonment will lie. Whether the imprisonment or ' detention ' is initiated by words or

action constituting technically an arrest is for this purpose immaterial, nor is it material for the purpose of rule 3 of the Judges' Rules. Any person who, in fact, is under restraint, and knows that he is under restraint, should be treated as in custody within the meaning of that rule."

The rule referred to is that requiring the " caution." Incidentally the caution administered by the Gold Coast police retains the words " against you," omitted in England, on the advice of the judges, since 1912.

The technical " arrest " was not effected until Major Smith had obtained a warrant, for " causing dangerous harm " to Mrs. Knowles. This was at 2.30 p.m. on the 22nd October.

Why he felt it necessary to have a warrant is difficult to understand. The law in Ashanti gives a constable authority, " with or without a warrant or other legal process," to " arrest and detain any person whom he reasonably suspects to have committed a felony." He had already told Dr. Knowles that he was detaining him " on suspicion of causing serious harm " to Mrs. Knowles, and causing " dangerous " harm is a felony in Ashanti (secs. 3 and 205 of the Criminal Code taken together). The non-police mind would suppose that " serious " and " dangerous " were much the same. They undoubtedly are in a tropical climate.

It is worth notice than in sec. 61 of the Criminal Code, quoted above, detention follows arrest. The process was sought to be reversed in practice.

Later, Mrs. Knowles made her deposition. This is described in the exhibit list as a "declaration," and from the last words, no doubt in response to a question, " I am not in fear of death," it would almost seem as though there were some confusion in the mind of the District Commissioner between a " dying declaration " and a statement made on oath under the provisions of a

law. This is a not uncommon mistake, and the distinction is perhaps worth stating once more.

A dying declaration is a statement made by a person actually dying, who has given up all hope of recovery, as to the cause of his death, and it is admissible in trials for the murder or manslaughter of the declarant. It is evidence, no matter to whom it is made, and absolutely no formalities are required to be fulfilled at the time of its making, though naturally the declarant's state of mind as to hopelessness of recovery must somehow be made apparent. The acceptance of the declaration is based on the idea that a man about to die is unlikely to transgress against the sacredness of truth, an assumption fairly safe in a Christian country, but having strange consequences sometimes. Mr. Justice Stephen tells us in his " History of the Criminal Law of England " that in the Punjab the effect of it is that a person mortally wounded frequently makes a statement bringing all his hereditary enemies on to the scene at the time of his receiving his wound, thus using his last opportunity to do them an injury. " What motive," said a Madrasi, " for telling the truth can any man possibly have when he is at the point of death? "

A " dying " deposition, as it is conveniently labelled, although the deponent need not be, and sometimes is not either dying or in danger of death, is simply a deposition taken out of Court " for the preservation of testimony," as the Criminal Procedure Code of the Gold Coast says. It is taken out of Court, but on oath with all the usual formalities, in the presence of the accused, if there is an accused, who cross-examines or has the opportunity of cross-examination. Mrs. Knowles's " declaration " was, in fact, such a deposition.

The following day, which would be Tuesday, the 23rd October, 1928, the police searched the bungalow of the accused. There is a good deal of evidence as to bullet

holes, and the possible line of flight of various projectiles. The reader can examine this evidence if he thinks it worth while. The Acting Circuit Judge went into it with particularity, but the Judicial Committee found this inquiry to be "quite by the mark. It is quite certain that the deceased was killed by a revolver bullet, and there being no certain evidence as to the position of the parties at the time, no conclusions can be drawn from the possible *indicia* as to the flight of the bullet." The present editor respectfully echoes these remarks. There does not seem to be much point in settling which bullet slew Mrs. Knowles. There is no doubt that the one which did so might have been fired by the accused, and Dr. Gush quite fairly puts the difficulties in the way of the dead woman having fired it herself accidentally. All the persons concerned in the investigation were used to firearms, and they went off on a side issue, very interesting in itself to experts, but of no value in the circumstances. It is a common trick played by the human mind thus subtly to find ways to amuse itself with technicalities that appeal to it, meanwhile missing the main points.

VI.

There was a preliminary inquiry into Mrs. Knowles's death by the District Commissioner. This could either be an investigation similar to that held in England by "examining" justices, upon which would follow discharge or committal for trial,[1] as it does here under the Indictable Offences Act, 1848; or the inquiry might have been a coroner's inquest, as indeed it is called by the *Gold Coast Independent*. Here, too, as there was an accused person, he could be committed for trial. Which form the inquiry took is not important. The result would be the same, and probably the offices of coroner and examining magistrate there are held by the same person. Depositions would be taken. By law a copy has to be supplied to the Commissioner of Police.

There was a committal for trial, followed by a trial which lasted for nine days.

The trial was held in the Court-room at Kumasi, described by the Kumasi correspondent of the *Gold Coast Independent* as a little room forty feet by twenty feet, with whitewashed walls; a simple enough setting of the stage where a man was to fight for his life before his countrymen, he worn out and tremulous, they oppressed with the duty of trying a fellow exile, in circumstances painful to them as men and embarrassing to them as officials.

The same correspondent reports that during the hearing no one except the officials actually engaged, and, of course, the witnesses when testifying, attended the Court. The Commissioner of Police prosecuted, no counsel being, by law, allowed on either side. Judging merely from the printed word, he seems to have per-

[1] Ashanti Commissioners Ordinance, sec. 18.

formed his unpleasant task with care and restraint, and the judge throughout seems carefully and strictly to have applied our over-technical rules of evidence.

Among the witnesses were the native servants—Sampson, who in perturbation had run three times to the District Commissioner, and between whom and the accused there seems to have been mutual dislike; Karikari Kweku Karikari of the picturesque name, the District Commissioner's " small boy "; Kofi Badoo, the cook at the Knowles's bungalow; and others. In some cases the evidence had to be interpreted from the Twi and the Hausa languages, and the witnesses were " sworn according to religious belief." What particular ceremony is used, the present editor is unaware, though he has seen some odd performances in Court, and known still odder, such as cutting off the head of a fowl, suggested and not adopted. The one essential of the judicial oath is that the witness shall consider it binding on his conscience. There are, however, it is to be feared, more elastic consciences than binding oaths.

The native witnesses who spoke English speak a delightful form of it which we have been at pains to preserve. The District Commissioner's " small boy " must not be pictured as a little lad. He was probably as big as any other of the native servants, who are all " boys " by description, only he was an under servant. The use of the word " palaver " both by the natives and the Europeans is interesting. It is a survival from the Portuguese occupation of points on the West Coast. The word was *palavra,* which has come to mean not only a discussion or conference, but any happening. Among the common people in England the word has come to mean fussy talk. " What a lot of palaver about nothing," is said.

" Live " is used in interesting ways. When Sampson wants to say something was happening in the bedroom, he says, " Something live for inside the bedroom "; and

when he stayed in the pantry, he " lived for pantry." The wardrobe " used to live in the house," is, however, a colloquialism met with in England. But Sampson " met " the pistol when he found it.

The peculiarities of speech are not limited to the natives. A Scotsman evidently had a hand in drafting the Ashanti laws, which speak of " the judicial system *presently* established in Ashanti." An Englishman would have said " at present," illogically keeping the word " presently " to use when he means " later on," a pleasant instance of procrastination politely disguised by pretended readiness to act.

One can picture the scene in the Court-room as the trial wearily dragged itself out day after day—the usual dullness of the witnesses in understanding questions; the interminable delays of the interpreter, now failing to get an answer, now overwhelmed with a rush of words which he has somehow to render into another tongue; the judge busily taking his notes; the prisoner at times apathetic, at times tense.

He seems to have conducted his defence with some ability. He certainly said what ought to have suggested to the judge the alternative defence of manslaughter: " There is no evidence of intent." Unluckily he left that sentence linked to " I did not murder my wife, nor did I fire the shot that killed her." But the judge arrived at his conclusion, and the day came for the pronouncing of sentence.

This time the little room was crowded " with all responsible Europeans in the district and a score or so of native Africans." The judge read his prepared judgment. " It was obvious that he was suffering under the strain of great emotion."

" Dr. Knowles was the most unaffected white man in the Court. He stood firm and straight between his police guards, without a tremor, watching the judge and listening with keen attention to every word of the judgment."

Asked, in the usual formula, if he had anything to say why sentence of death should not be pronounced, he protested against his trial without jury and without the assistance of counsel. The record of proceedings has as *allocutus* : " The prisoner makes an excited and rambling statement wherein, although denying his guilt, he says it is no good to say that, as every one would do so if found guilty. As a British citizen he protests against being tried without a jury, and states that without the help of counsel he was unable to formulate his questions properly."

Those on the spot alone could judge whether he rambled. It is certainly not an unsound or foolish observation that a denial of guilt is discounted by the fact that most persons guilty of serious crime do deny their guilt.

After this protest the sentence of the law was pronounced. Its brief impressive terms must echo in the heart and mind of the condemned long after the sound of the words has passed away. There is a dread finality about them: " The sentence of the Court is that you be taken to a place to be hereafter appointed and there you be hanged by the neck till you are dead." After which the soul is remitted to the Lord's mercy. Man can do no more, either evil or good.

The editor does not propose to examine the judgment in detail. It recites the facts as they presented themselves to the mind of the judge, and sets out fully his reasons for his decision. Its weaknesses were pointed out before the Judicial Committee by counsel for the appellant, and it was set aside on adequate grounds lucidly explained in the judgment of that tribunal. One observation does seem to the editor to indicate the attitude of the judge and his mental make-up:

" As to the various remarks made to the police officers and Mr. Hansen, the accused states that the idea of murder never entered into his head and he was acting

under an *idée fixe* which it would take an expert psychologist to explain. To that one can only say that from that it is clear from the remarks already quoted—' If she rolls up, I shall be hanged by the neck until I am dead,' &c.—that the idea of murder was in his mind, and also that the somewhat subtle defence of an obscure mental process, by which all these statements are merely manifestations of an *idée fixe* to protect his wife and have no relation to truth, is not one that can commend itself to a Court of law without very strong technical evidence to support it; and it must be noted that he never said it was an accident, but went out of his way to show considerable provocation."

Why should the subtle defence of an obscure mental process not commend itself to a Court of law? It is a defence like any other defence, to be carefully examined in the light of available knowledge, and either rejected or accepted in whole or in part. Here there was a man admittedly in a highly nervous condition, suffering, if Dr. Gush were right, from old alcoholism. The workings of his mind in such circumstances were certainly worth inquiring into. Indeed, they offered the very clue the judge missed, and which might have resulted in a verdict of manslaughter, clearly, if accident was to be ruled out, the right one. How, too, was the " strong technical evidence " to be obtained by Dr. Knowles? Expert psychologists do not abound anywhere. They are not likely to be found in the remoter parts of the Empire. We will not discuss their value when they are discovered.

One contention of counsel for the appellant deserves special mention. He submitted that the trial judge " fell into the error of assuming that if the dead woman's statement were untrue, it would go a long way towards establishing Dr. Knowles's guilt." This is a severe reflection. But our minds do play such tricks on us. If that statement be deemed to be an untruth, it is merely demolished. It cannot be of any evidential

value at all. The prosecution must be left to prove by other means the guilt of the accused. The judge never had in his mind more than two alternatives, accident or murder, and this might well lead to the statement disbelieved being given the effect of a statement to the contrary. Assuming it had any evidential value at all, it could only go to show that Dr. Knowles fired the shot, not that he intended to hit his wife. However the case be examined, and whatever part of it one looks at, one is always brought back to the crucial question, " What was the state of mind of the accused? " It was a fatal flaw in the judgment that it never posed, and consequently never resolved, this crucial question.

How is it that a failure to find the kernel of a case so often occurs, as witness the reports of the proceedings in the Court of Criminal Appeal? More often than not it is due to a failure to disentangle what Vinogradoff calls " facts in law," *i.e.*, facts to be proved, from facts which prove.

The terms " fact in law " and " act in law " are little used in English jurisprudence, but a comprehension of the notions they stand for materially assists clear thought. Here in the Knowles case was a multitude of facts. They had to be sifted, and those rejected which were doubtful or irrelevant. From the remainder, proved or considered to be proved by evidence, had to be selected those which established the points of application of the law. The last stage of the analysis leading to judgment should reduce the whole mass to a mere framework, a skeleton of the event. For a conviction for murder the Court must be satisfied that: (a) the accused intended to kill, (b) did an act resulting in the death of another person, (c) the death occurred within a year and a day of the act. Four elements—intention, act, result, time—are present. Manslaughter presents alternative outlines or combinations of " facts in law." In the present instance the " facts in law " would be: (a) the com-

mission of a minor offence (the reckless firing of a shot intended to frighten but not to hit though actually hitting), (b) death as a result of the wound so inflicted, (c) death within the time limited by law. Again four elements are present—state of mind, act, result, time.

Both crimes have the last three elements in common. If the shot were fired by Dr. Knowles everything turned on his state of mind: was it wilfulness or recklessness which made the hand fire the pistol? There is no trace in the Acting Circuit Judge's judgment that he ever directed his mind to this question. He decided, rightly or wrongly, the issue between accident or crime. He failed to examine the issue, which crime?

After the sentence was delivered, rumours ran round about appeals to the Privy Council and a "reprieve by the King," but eventually the law governing the situation was appreciated by the public. The Governor's advisers could not have been in any doubt about his powers of remission. The exercise of the Royal Prerogative of pardon and remission has, as we have seen, been delegated by Letters Patent to him. In the exercise of his powers he commuted Dr. Knowles's sentence to one of imprisonment for life.

VII.

The judgment and its sequels aroused very great interest in West Africa. When, as an item of news, the capital sentence on Dr. Knowles and its commutation was known in England, it created rather painful surprise, which was followed by a determination on the part of his friends to carry the matter to whatever Appeal Court was available. Funds had to be raised, for an appeal to the Privy Council is a costly affair. Special leave to appeal was obtained without much trouble. Dr. Knowles was brought to England, the matter was argued, and the sentence was quashed.

The proceedings in London were fully dealt with in the daily press. It was felt that a substantial matter was under discussion. Articles from *The Times* and the *Daily Telegraph* are printed in an appendix, together with the comments of the legal press.

The *Evening Standard* for the 20th November, 1929, gave the following account of Dr. Knowles's release:—

"Outside the massive fifty feet gates of Maidstone Prison a crowd had waited from a very early hour to see Dr. Knowles emerge, a free man.

"They waited in vain.

"They saw a parcel of clothes reach the prison for the doctor.

"Then, several hours later, they saw a big saloon car arrive at the gates. The car had come from London. In it were Mrs. Ashby, the sister of Dr. Knowles, a solicitor, and a friend.

"Almost at the same moment a telegraph boy arrived with a telegram for Dr. Knowles.

"The car passed in through the gates of the gaol.

"Then a long wait, until there was a sudden stir among the crowd.

" The big gates swung open again, and out came the big car. Mrs. Ashby could be seen in it, and it was thought that the doctor was sitting beside her.

" But he was not.

" I discovered that Dr. Knowles was assisted to elude the crowd by the gaol authorities.

" He was smuggled through an underground passage which runs beneath the prison and the Sessions House, a big building where the assizes are held. At the gate at the end of the passage a fast car waited. Dr. Knowles jumped in and was driven along the road to London.

" At a spot a dozen miles from Maidstone the car pulled up and waited. This rendezvous had been arranged at a talk with his friends in gaol, and in a few minutes their big car arrived and picked up the doctor.

" Dr. Knowles has gone to a village in Buckinghamshire where his sister has a house. He will stay with her some little time.

" There was an emotional scene when the sister and brother met in Maidstone Gaol.

" Mrs. Ashby rushed up to her brother with open arms and, in the stress of her emotion, broke into broad Scots.

" ' Oh, Benjamin, laddie, ye are free and will now be able to come hame and see your auld mither,' she exclaimed.

" ' Yes, yes, I shall,' Dr. Knowles said, ' that is what I have been looking forward to.'

" The two embraced, and then continued to shake hands for some moments.

" Mrs. Ashby persistently assured her brother of her faith in British justice, and Dr. Knowles said that was what had borne him up all the time.

" The doctor spent some time in the prison infirmary last week, but I understand that, before his release, his health had much improved."

How much of this picturesque account is hard fact and how much is due to the artistry of the reporter the

editor is unable to say. It is the only account known to him, so, with the kind permission of the editor of the journal in question, he presents it to his readers. Whatever is or is not accurate, the " big crowd " seems likely enough. Where these big crowds come from is amazing. They gather like the eagles to the carcase. Their mass psychology is a fascinating problem on which, were it not too remote from the present case, an interesting discourse, adducing many striking instances, might be written. That must be for another time.

VIII.

The Court which heard the appeal in this case is one of the most interesting in the world. It certainly has the most wide-ranging and varied work of any Court which ever existed. In appeals from India and elsewhere it deals with complicated questions of Hindu and Mohammedan law, it has problems arising out of Roman-Dutch law in South Africa, of French law in Canada, of local and tribal customs throughout the Empire. It has settled the status of a Hindu idol[1] and the sovereignty of a hundred thousand square miles of territory in North America.[2] It is the final Court of Appeal in prize cases and has had occasion to assert its position and that of the Admiralty Court sitting in Prize, as international Courts administering international law.[3] It is the final Court of Appeal from the Ecclesiastical Courts, and so is concerned with canon law.[4]

The judgment of the Judicial Committee is in the form of advice tendered to the King. All the appeals it hears being appeals to him, the judgments are not effective until formally adopted and embodied in an Order in Council.[5] The history of the matter is long and complicated, and it would be out of place here to enlarge upon it, but, as very few people seem to know much about the Court, a brief note may be useful to the lay reader.

In earlier times all the King's subjects sought justice direct from the King, as in legal theory they do now, the Courts being the King's Courts. Not for long was the appeal, or could it be, to the King in person; it

[1] *Pramatha Nath Mullick* v. *Pradyumna Kumar Mullick*, [1924] L.R. 52, Ind. App. 245.

[2] Report on the Labrador Boundary, 1st March, 1927.

[3] The "Zamora," [1926] A.C. 77.

[4] See the very interesting case of *Wakeford* v. *Bishop of Lincoln. The Times*, April, 1921.

[5] See the Order in Council printed at page 175.

soon came to be to the King in his High Court of Parliament or to the King in his Council. For long the two jurisdictions remained ill-defined and overlapping. The history of their conflict is largely the history of the Great Rebellion. When finally the Star Chamber was destroyed, the Council ceased to meddle with matters cognisable in the Courts of common law (which had themselves in ancient times grown out of the King's Council); but the right of petition to the King in Council from the islands and dependencies of the kingdom remained.

It has been regulated and restricted by statute many times and in many ways, and its exercise is a matter of controversy, very acute in the case of the Irish Free State, at the present moment.

The jurisdiction of the Council, in its present shape, was due to petitioners seeking from Parliament redress for injustice, and being unable to obtain it during lengthy intersessional intervals. The Channel Islands first sought the way out by appealing to the King in Council, or rather to the Duke of Normandy, who was of course the same person as the King of England. The Committee of the Privy Council for Trade and Plantations ("plantations" meaning, of course, colonies), whose activities are bound up with all the early history of our overseas possessions, heard such appeals from "the Plantations" and the Channel Islands in the seventeenth century. In the eighteenth an inhabitant of the Isle of Man managed to get his appeal from Lord Derby, the feudal lord of the island, heard on the ground that "the King in Council must needs have a jurisdiction in such a case to prevent a failure of justice." That admirably states the whole reason for the Judicial Committee. "Needs must" the King do justice to all his people, everywhere.

The present position is that in many cases there is an appeal as of right, conferred by definite enactment dealing with a particular place or a particular subject-

matter. There is always an appeal by special leave unless that appeal has been definitely taken away by express enactment. Special leave is given by an Order in Council made on the advice of the Judicial Committee.

The Judicial Committee does not readily grant leave to appeal in criminal cases. It has consistently declined to regard itself as a Court of Criminal Appeal. Leave to appeal is not granted " except where some clear departure from the requirements of justice " exists,[1] nor unless " by a disregard of the forms of legal process, or by some violation of the principles of natural justice or otherwise, substantial and grave injustice has been done."[2] There must be something which, in the particular case, deprives the accused of the substance of fair trial and the protection of the law, or which, in general, tends to divert the due and orderly administration of the law into a new course, which may be drawn into an evil precedent in future.[3] It " can only interfere in a criminal case if what has been done in the Court below is grossly contrary to the forms of justice or violates fundamental principles."[4]

" It will interfere with the finding of the Court below in a criminal case where injustice of a serious or substantial character has occurred, either by a disregard of the proper forms of legal process not merely of a technical character only, a violation of principle such as amounts to a denial of justice."[5]

The Judicial Committee sits in a room in Whitehall with very little trapping or display. Here in a quiet way are decided not only issues such as that in the Knowles' case, but questions of high Imperial importance, which, ill-decided, may some day bring the sword into the scale.

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[1] *Riel* v. *Reg.*, 1885, 10 App.Cas. 675.
[2] Dillet's case, 1887, 12 App.Cas. 459.
[3] *R.* v. *Bertrand*, [1892] A.C. 452; *Ibraham* v. *R.*, [1914] A.C. 599.
[4] *Clifford* v. *King Emperor*, [1913] L.R. 40, Ind.App. 241.
[5] *Dal Singh* v. *King Emperor*, [1917] L.R. 44, Ind.App. 137.

THE TRIAL

WITHIN THE

CHIEF COMMISSIONER'S COURT OF ASHANTI, KUMASI,

ON

TUESDAY, 13TH NOVEMBER, 1928,

TO

FRIDAY, 23RD NOVEMBER, 1928.

Judge—

His Honour FRANK JOHN JAMES FOSTER M'DOWELL, Esq.
(Acting Circuit Judge of Ashanti).

For the Crown—

Mr. PIEGROME (Commissioner of Police).

Charge.

That Benjamin Knowles on the 20th October, 1928, at Bekwai and within the jurisdiction of this Court did murder one Harriet Louise Knowles.

The accused pleaded not guilty.

Evidence for the Prosecution.

ERIC ANDERSON BURNER, examined—I am District Commissioner in Ashanti. I know the accused, Dr. Benjamin Knowles. I did not know Mrs. Knowles personally. I first saw her in the European Hospital, Kumasi, on Monday, 22nd October, when I went to take a statement from her from information I received. I thought it advisable to take a statement that day. I took a statement in writing in presence of the accused, Major Smith, police officer (identified by witness), and also of a nursing sister. Before taking it, I served a notice in writing on both the accused and Major Smith, informing them that it was my intention to take a statement from Mrs. Knowles. I proceeded to take the statement in writing on oath. At the conclusion I asked Dr. Knowles if he wished to ask his wife any questions and he replied he did not. The statement was signed by Mr. Knowles and by myself. I then added a certificate as required by the Ordinance and signed it. The document shown to me is the statement taken on 22nd October, 1928, and signed by Mrs. Knowles and myself. (Statement put in evidence as " A " and read).

EXHIBITS.[1]

NOTICE OF INTENTION TO TAKE STATEMENT.

Under sec. 46 of cap. 13 Laws of the Colony as applied to Ashanti, I, Eric Anderson Burner, a Commissioner of the Chief Commissioner's Court, do hereby give you, Major Smith, of the Police Department, notice of my intention to take, in writing, a statement from Mrs. M. Knowles, concerning certain matters.

Dated at Kumasi this 22nd day of October, 1928.

(Sgd.) E. A. BURNER, D.C.

A.—DECLARATION OF HARRIET LOUISE KNOWLES.

H. L. KNOWLES, sworn on Bible.

There was a revolver standing or lying on a bookcase; it had been cleaned, I took it up and put it on the table near the bed, the boy came with the afternoon tea, I put the revolver carelessly on a chair, near the bed, I took a cup of tea, sitting on the chair; I sat on the gun, as I got up it caught in my dress with a lace frill, I tried to take it away from the lace, and suddenly it went off, the bullet passing through my leg. I did not realise I was shot until I saw blood running from my leg. I am not in fear of death.

(Sgd.) HARRIET LOUISE KNOWLES.

Before me,
(Sgd.) E. A. BURNER, D.C.

I certify that this statement contains accurately the whole of the statement made by Harriet Louise Knowles, given to me in the Colonial Hospital, Kumasi, on the 22nd day of October, 1928. My reason for taking this statement is that I have reason to believe that H. L. Knowles is a dying woman, from wounds received. (Sgd.) E. A. BURNER, D.C.

I further certify that statement was given to me on oath in the presence of Dr. B. Knowles and Major Smith, A.C.P.

(Sgd.) E. A. BURNER, D.C.

Cross-examined by ACCUSED—Do you consider Mrs. Knowles was in full possession of all her mental faculties at the time she made her statement?—Yes, I do.

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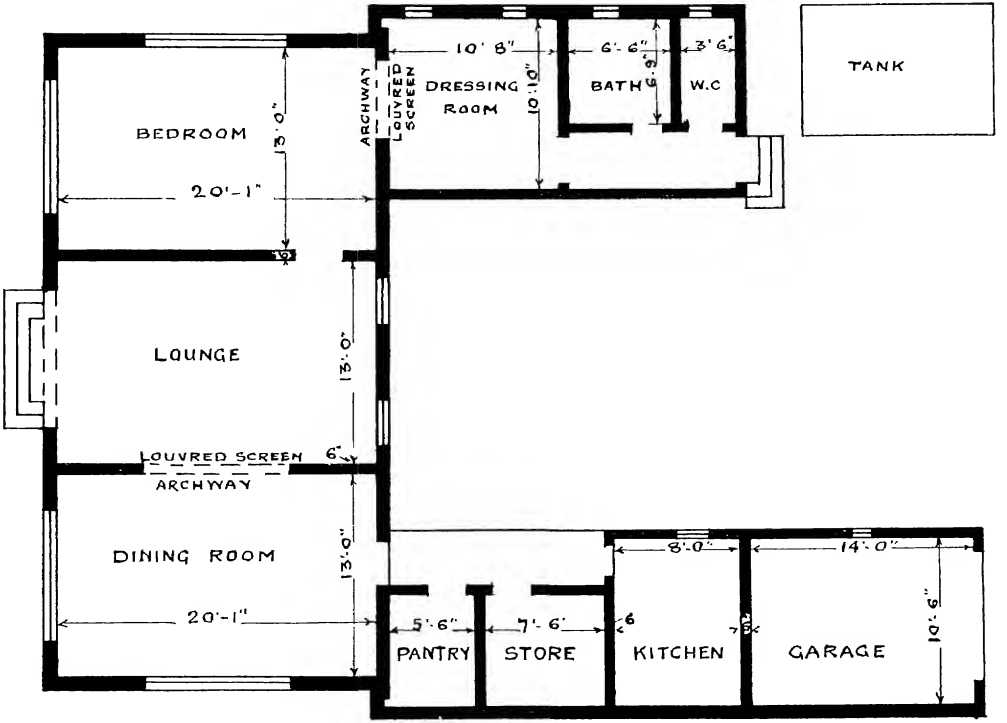
[1] Only those referred to in the text by letters are printed. Owing to double marking, the record of the trial is difficult to follow with an exhibit list, so all references, except in the case of printed documents, have been omitted.



Plan of Dr. Knowles's Bungalow at Bekwai

Was Dr. Gush present?—Yes, he was in the far corner of the ward. I think he could have heard.

Re-examined—Do you actually know if Dr. Gush heard?—No.

EDWIN DANIEL HAYFRON, examined—I am first division draughtsman in the Public Works Department, Kumasi. I have been employed there over fifteen years. I know Bekwai, and I know the Government bungalows. I know the accused Dr. Knowles who was stationed there, and I know his bungalow. In consequence of instructions received, I went to Bekwai and made a plan of the bungalow. The plan shown me is the one I made. It is made to scale $\frac{1}{4}$ in. to 1 ft. and bears my signature.

By the COURT—I took the measurements myself. (Plan received in evidence and marked " B.")

The ACCUSED—No questions.

By the COURT—The louvred doors are swing doors. I did not notice whether they came down to the ground. The door was open when I went in. I do not know whether it was fastened back.

HOWARD WALTER GUSH, examined—I am a surgeon specialist, stationed at Kumasi. I know the accused, Dr. Knowles. I knew his wife, Harriet Knowles; they lived at Bekwai together. On 21st October last, at about 3 p.m., I heard something, and in consequence I motored down to Bekwai by myself. I left my car outside the District Commissioner's bungalow and walked across to Dr. Knowles's; it was then about 4 p.m. I walked into the bungalow and called out for accused and he asked who it was. I gave him my name, and then he came out of the bedroom. I apologised for my sudden intrusion.

The accused was dressed in pyjamas; mentally he appeared very confused, and physically he looked extremely weak. He was suffering from the effects of alcohol. By that I mean old effects. He asked me to

sit down, and we both sat down. I said I had been told there had been an accident. Dr. Knowles asked me who had told me so. I replied Mr. Applegate, the Provincial Commissioner. Accused then said, " There has been a domestic fracas." I asked what had happened. He showed me his left leg, which was covered with bruises, and stated that his wife had flogged him with an Indian club. He further stated that she had been nagging him the previous afternoon, and he told her that if she did not leave the room he would put a bullet in her. I asked him if I might see Mrs. Knowles. He went into the bedroom to ask, and I heard her say, " I would like to see Dr. Gush." Accused and I went into the bedroom together. I saw Mrs. Knowles standing at the foot of the bed, in a nightdress. I asked permission to examine the wounds, and I asked Mrs. Knowles how the accident had happened. Dr. Knowles was present. She said she had been examining her husband's revolver, which had been recently cleaned by the police; that she had put the revolver down on a chair and shortly after sat upon it; that she tried to remove it from underneath her, but the open-work sleeve of her dress caught in the trigger and the revolver went off. Dr. Knowles said, " Speak the truth," and Mrs. Knowles replied, " Shut up, Benjy. You don't know what you are talking about." Dr. Knowles did not reply to this.

I examined the wounds and found a wound in the fold of the left buttock, about the size of a threepenny bit, with marks of dried blood around the wound. I found a second wound on the right side of the abdomen, about the size of a sixpenny piece. The wound of entry was the one on the left buttock and the exit wound was the one on the abdomen. I saw blood between the thighs, and I told Mrs. Knowles she must come into the hospital at Kumasi. Both she and the accused agreed to this. I suggested she should have a warm bath first. I then attempted to leave the bedroom. Dr. Knowles was

sitting in a wicker chair, in front of the door. I asked if he would mind getting up so that I could go out of the room. He did not appear to understand my request, so I lifted the chair with him sitting in it out of the way. I called the boy to bring hot water for the bath and then went to the District Commissioner's bungalow to fetch my car. I saw the District Commissioner. I took my car back to accused's house, by which time Mrs. Knowles was dressed. I asked the accused for the revolver and he said he did not know where it was. Mrs. Knowles then said it was in a uniform case, and opened a bag and produced a key with which I unlocked the uniform case, inside of which, on the top of some clothes, was a revolver. I did not see a holster. I unloaded the revolver and removed five live cartridges and one empty shell. The revolver was similar to the one shown me. The cartridges are also similar. I wrapped up the revolver and cartridges in a small towel and put them in my pocket, and the following day I handed them over to Major Smith (Major Smith, Assistant Commissioner of Police, identified by witness). I brought Mrs. Knowles up to Kumasi and placed her in hospital and treated the wounds. They had been treated before apparently with iodine. That, combined with rest, was the correct treatment. There were no dressings when I saw them. That was not necessarily the fullest treatment that could have been given.

When I first saw Mrs. Knowles at Bekwai, I knew at once that the wounds were very serious. Mrs. Knowles died at 1 a.m. on the 23rd October.

On 22nd October I saw Mr. Burner, Major Smith, Mr. Morris, Assistant Commissioner of Police, and the accused; and Mrs. Knowles made a statement. I heard a portion of it. I heard Mr. Burner ask the accused if he wished to ask any questions. I did not hear accused ask any questions. The statement was taken at my

request as I knew Mrs. Knowles was dying. When I first saw the wounds on Mrs. Knowles, I did not notice any marks of burning.

If any one sat on a revolver, would there be marks of burning?—Only if in contact with the skin. If either the body were clothed or the revolver a few inches off, I would not expect to find burning.

I made an autopsy on Mrs. Knowles. I found two perforations in the bowels; the bladder and the lower section of the uterus were also perforated; there was slight congestion of the base of the left lung, and the heart showed signs of fatty degeneration. In my opinion death was due to septic peritonitis caused by a gunshot wound. It was consistent with a wound caused by a bullet like the one shown me.

When you first went to Bekwai, did you see an Indian club?—No.

Did you see any beds in the room?—Yes, there were two beds touching each other, and there was a mosquito net over them, hanging down, and I saw a hole in it with a dark stain about it. I did not examine the stain closely. I recognise the net as the one shown to me.

What does the stain look like?—It might be gunpowder. I should not like to say.

Did you see a table in the room?—Yes, it is the one I see now.

In your opinion what distance was the shot fired from?—Within a few feet.

In what position do you consider the deceased was, from the appearance of the wounds?—Stooping, or semi-sitting.

Did you notice any chairs?—I noticed one in particular. It was similar to one of the two in Court. I noticed it as it was the one Dr. Knowles was sitting in.

Did you see any stains of any sort?—The table had blood stains, and there were newspapers on it, also blood

stained. I also saw blood stains on the bed further from the door leading to the sitting-room, *i.e.*, the farther side from the hole in the mosquito net. I saw no stains on the chair.

How long after the infliction of wounds of this nature would you expect bloodshed?—Immediately.

Did Mrs. Knowles say anything about the clothes she was wearing in the presence of the accused?

[Court stops witness.]

By the COURT—Could he hear?—I do not know. He was sitting in a chair by the door in a dazed manner.

[Court rules question inadmissible.]

By the COURT—When was this?—It was after I had examined Mrs. Knowles.

Had he understood previous statements?—He was mentally sluggish, but I would not go so far as to say he could not understand.

Examination continued—Where is the nearest doctor to Bekwai?—Kumasi.

Was any request sent by the accused for medical help?—No.

After Dr. Knowles had told you that he had said he would put a bullet through his wife if she did not leave the room, did he say any more?—No.

Has the accused at any time made any further statement to you about the affair?—I do not remember any other.

By the COURT—The entry wound was in the fold of the left buttock to the right of the main bone.

Cross-examined by the ACCUSED—Was my wife in full possession of her mental faculties when she made her statement?—She certainly was.

When she made the statement, did you think I was normal?—I did not. I saw you arrive; you stumbled up the steps, and you were still very confused and very dazed.

Was there any sign that I had taken drugs?—I think you had. I formed this opinion that your condition both at the hospital and at Bekwai was due to three conditions—first, alcohol; second, opium or morphia; and third, shock at the accident.

You know from the position of the wounds that there must have been a lot of blood?—Yes.

Ante-mortem, there must have been a continuous stream of blood?—Yes.

Would not the first thing to do be to stop the bleeding?—Undoubtedly.

And to enjoin absolute rest?—Perfectly correct.

On your first examination, would you not think the wound might recover with rest, opiates, and stopping the hæmorrhage—you have seen cases like that?—I have.

She was under my care for about twenty-four hours. Do you think that under the circumstances what I did was good practice?—Yes.

Have you examined the underneath part of the table?—Yes, at the Police Magistrate's Court.

Did you note the small marking on the beading?—Yes.

Could it have been caused by a bullet?—Yes.

The exit mark is under the table?—Yes.

By the COURT—Did you see it before?—No; there was a cloth and newspapers on the table. I did not see if the cloth were torn.

The direction of the wound was from left to right in the deceased's body?—Yes.

The entrance wound was the size of a threepenny bit?—Yes.

A little more than the calibre of the cartridges? Would you expect a soft-nosed bullet, having penetrated a table, to make a bigger entrance wound?—Yes, considerably larger.

You have had considerable experience of gunshot wounds?—Yes.

After your *post-mortem* examination, knowing the various tissues and viscera it had penetrated, would you expect the exit wound to be anything like what it was in dimensions?—Certainly not. I should have expected both the entrance and the exit wounds to have been very much larger, if it had struck anything else; it is the size I should expect if it had not struck anything previously.

You have shot big game with soft-nosed bullets?—Yes.

Would not the wound have caused great resistance to a low-velocity bullet?—Yes, particularly as Mrs. Knowles was stout.

Do you think after passing through the table and Mrs. Knowles the bullet would have had sufficient energy to have travelled about 15 ft., penetrated a wardrobe, and bedded in the back?—No.

Re-examined—Have you shot big game with a revolver?—No.

What experience have you had with a revolver?—Not much experience of shooting, but I have seen many cases of revolver wounds during the war.

If this bullet had passed through this wardrobe door, and bedded in the back, would you expect it to be more mushroomed than it is?—Yes.

Did you see any attempt to stop the hæmorrhage?—I did not see any signs, but I only saw her twenty-four hours after, when the bleeding had stopped.

Was the bleeding from anywhere else?—Yes, from the vagina.

Was there any attempt to stop this?—Yes, there was a pad.

By the COURT—How tall was Mrs. Knowles?—About 5 ft. 4 in.

In your opinion was the entrance wound above or below the top level of the table when she stood up?—I cannot say.

ERNEST ALFRED BRADFIELD, examined—I am inspector of works, Public Works Department, Bekwai. I know the accused, Dr. Knowles. I knew Mrs. Knowles, his wife. I have known accused twelve months and Mrs. Knowles approximately about six months. I remember 20th October; it was a Saturday. I was in Bekwai. I went to lunch with Dr. and Mrs. Knowles. Mr. Mangin and Mr. Grove were present. We went there just after 1 p.m. Nothing special happened after lunch. I left about 2.15 p.m. We were all laughing and joking. There was no abnormal quantity drunk at the lunch.

Do you remember what sort of dress Mrs. Knowles was wearing?—I am not prepared to swear to it.

Cross-examined by the ACCUSED—You have been in my dressing-room?—Yes.

Have you seen the wardrobe before?—Yes.

Do you remember seeing this hole?—I remember your pointing out that there was a hole. I did not pay particular attention, but I saw a hole in the front of the wardrobe. This was months ago and I cannot say it is the one I saw.

Can you see any signs of a hole having been repaired?—No.

Did you repair the hole?—No.

Re-examined—How many wardrobes are there in accused's dressing-room?—There should be two. I lent one when Mrs. Knowles came out, as the doctor had only one. I took this back and replaced it by one from Kumasi.

Which one is this?—I believe this is the newer one sent some three or four months ago.

When were you shown a hole in the wardrobe?—I do not remember, but Mrs. Knowles was out. There were two wardrobes in the room. I had lent my wardrobe to Mrs. Knowles the day she came out. And I should think it was a month before I changed it, but I cannot tell.

By the COURT—Did Dr. Knowles say how the hole had been made?—I believe he said by a revolver shot, but I did not pay much attention.

THORLIEF RATTRAY ORDE MANGIN, examined—I am District Commissioner, stationed at Bekwai. I remember 20th October last. On that day I went to lunch with Dr. and Mrs. Knowles. There were also present Mr. Bradfield (identified by witness) and Mr. Grove. This was shortly after 1 p.m. I left after lunch, between 2.15 and 2.30 p.m. Nothing unusual occurred at lunch. About 4.30 or 4.45 p.m. I received a report from my steward boy. In consequence I took my car and went over to the doctor's bungalow. I stopped outside the front door and called to the doctor. I saw him walk from the dining-room to the bedroom without any clothes on, and he came out of the bedroom to the steps with a towel round him. I apologised for calling him out, and told him that I heard that a shot had been fired and that Mrs. Knowles had been heard to scream. I asked if there had been any accident and if I could do anything, and the accused said it was all right. He appeared to be normal. I then went off. I returned after tennis to my bungalow, at about 6.45, and was told something. In consequence I wrote a letter to Dr. Knowles and gave it to a small boy, Kwaku Karikari (identified by witness). The letter shown me is the one (marked " L " for identification).

L.—LETTER, T. R. O. MANGIN TO DEFENDANT.

Dear Doctor,

Your boy has been over three times to see me, and has evidently got wind up. Naturally I cannot butt into what is not my concern, but if I can be of any assistance, you know that you just have to say so.

Yours,

(Intld.) T. R. O. M.

I received no reply. I have a recollection that Mrs. Knowles was wearing a light frock, but I am not absolutely certain of this. On Sunday, 21st October, I came to Kumasi and saw Mr. Applegate and Dr. Gush. Mr. Applegate and I went to Bekwai, Dr. Gush going on first. Dr. Gush took Mrs. Knowles away from Bekwai. I had known the accused and Mrs. Knowles about four months.

Do you know anything about their relationship?—To a certain extent. I should say they were very fond of each other, but Mrs. Knowles was a very excitable woman. I saw a great deal of them. I have seen Mrs. Knowles get on the accused's nerves. I could see that by his expression and general attitude.

After lunch did you notice anything about the accused?—No, he was normal and sober. Mrs. Knowles was anxious for us to stay and have another drink.

Why did you come to Kumasi on 21st October?—I wished to report to Mr. Applegate privately what had happened.

Had the accused a licence for a revolver?—I can find no record, but the stubs of the licence book only go back as far as November and I understand the doctor came out in October.

Has he a licence for any other weapon?—Yes, a double-barrelled gun.

Cross-examined by the ACCUSED—Your bungalow is nearly the same type as mine?—Yes.

What is the bedroom temperature like?—Frightfully hot; you can feel the walls hot when you touch them.

It is too hot to sleep in pyjamas in the afternoon?—Yes, I myself only use a towel.

Did you speak to my wife after the luncheon party?—No, not after it broke up.

By the COURT—Was Mrs. Knowles sober?—Yes.

Evidence for Prosecution.

SAMPSON, examined—I am steward boy for Dr. Knowles whom I see here. I worked for him about three weeks before this palaver happened. The accused had a wife; they lived together at Bekwai. I remember a Saturday about a month ago, Mr. Bradfield (identified by witness), the District Commissioner, Bekwai (Mr. Mangin, identified by witness), and a massa from Millers. I passed lunch. After lunch I went to the town. I came back at 4.30, the time the train came through from Sekondi to Kumasi. At the same time I went to lay the table for tea in chop-room. I got the small plate and teacup, before I went to put them on table. I heard Doctor shout inside the bedroom, " Show me! " At the same time I heard something burst inside the room, as a gun. I heard Missus cry at the same time, " Ah! Ah! Ah! " I then ran to District Commissioner, where I saw his boys, and I told them I wanted to see Master. I saw the District Commissioner come from the bathroom, and I spoke to him and said, " Will you please come and look what is inside bungalow." I then ran back to the bungalow. Then District Commissioner came round in car. I heard him speak, but I do not understand what they talked. After, District Commissioner turned the car and went down to town.

I heard Missus cry again, " Ah! Ah! Ah! " so I went to District Commissioner again. I found District Commissioner had gone out, so I told his boys that Missus cry too much, and when he came back he should come and see her. When I came back, I and my small boy (Fra Fra, identified by witness) stay for pantry. About 6.30 p.m. the cook, Kofi Badoo (identified by witness), and the driver came. I do not know his name. (J. K. Amankra, identified as driver by witness.) I told them something live for inside the bedroom; that I had heard a gun, and I had told District Commissioner.

Sampson

Master came out then at 6.30 and called us all, me, Kofi, driver, and small boy, and told Kofi I had reported to District Commissioner that he fired gun for inside the room, and he took the key of the store and knocked me on the head. I go and sit down for pantry. At about 6.45 Master called Kofi, who took my duster I used for lamp and a bucket, and at the same time the driver took the accused to hospital. Cook called me into the bedroom. I went inside to help Kofi who was cleaning up the blood. When he was cleaning the blood from the floor, I saw him pick up something and I took it. It was all the same as thing that come from inside the gun. I took it to the pantry and after gave it to the Superintendent. (Superintendent J. K. Afful, identified by witness.) I would know the thing again if I saw it. It is like the thing shown me. When Kofi handed this, I went to pantry. I saw the District Commissioner's boy. I had a pair of Missus's shoes in my hand. The District Commisisoner's boy had a letter. I took it and sent it in to Missus. I took a lamp and held it, and Missus read the letter. When she finished, she said, " All right, Sam," and I and Kofi left the room. When we had been there small, Master came back and called " Boy." I go to him and he asked for a whisky and soda which I passed. I saw Missus hand him a letter and I go back to pantry. I would know the letter. (Witness picks out exhibit " L " from assorted papers.) I did not see whether Master read it; I only saw Missus hand it over to him, and I then went to pantry. I lived for pantry till something to 9, and then Master called Kofi for me to close the windows. I closed up and went for my house.

At daybreak I came back to the bungalow. I heard Kofi ask about breakfast, and Master said if he wanted breakfast he would call him. I also asked him, and he said the same thing. Then I went again and said, " What about Missus? " and he said, if she wanted

something, I would be called, and then he told me make cup of tea for Missus. I bring the tea to bedroom. I went inside and accused took the tea from my hand and put it on the table, and I went back to pantry. In the morning Master sent Kofi off to Mr. Hansen. (J. W. Hansen identified by witness.) I saw Kofi come back with some medicine. After, Mr. Hansen came and Master did not go down to hospital that day. He generally goes to bush on Sunday; but I heard him tell Mr. Hansen he could not go that day. I stayed in the pantry waiting for lunch till 2 or 3. Then about 4.30 Dr. Gush came. I heard him talking to Master, and then he called me to pass bath for Missus, which I did. I gave her a whisky and milk. Dr. Gush told her to go and she first kissed Master. Master stretched out his hand to shake hands, then Missus take him and kiss him on the forehead, and then Dr. Gush put her inside the car. Master then went inside the bedroom and did not come out till night-time. He took no dinner. I and Kofi went into the bedroom. Kofi took whisky and soda and I took a sparklet. Kofi took in a bottle of whisky. I went out, leaving Kofi there, and closed the windows up, and Kofi came and helped me. We then went out to sleep.

Daybreak next day we went to work inside room. In the morning Master called Kofi, but he had gone to town, so I went in the bedroom and Master told me to go to Mr. Hansen and get some medicine. I came back with Mr. Hansen and found two Commissioners in the bungalow. I know their names, Major Smith and Major Morris (identified by witness). I used to make my Master's bed. I and the small boy together or separately did so. We used to put the mosquito net down when we made it. Since I went to the house, there was a revolver under the pillow. I used to put it under the pillow because I met it there when I came. It used to be inside a bag. I would know the revolver and bag if

Sampson

I saw them. (Witness identifies revolver, and a holster.) I would know the mosquito net. (Witness identifies it.) The hole shown me I first saw when the palaver happened. I know the difference between it and the others, as fire had burnt it. The hole looks the same as when I saw it in the lower Court. The wardrobe now in Court used to live for the house. (Witness points to wardrobe.) I did not find the hole in the front till this matter happened, then I find it. I used to dust it. I have seen the table before. I did not see the hole in it till this palaver happened. It was kept in the bedroom, by Master's bed; we used to put a cloth, but when this palaver happened there was no cloth as it had been sent to the washerman.

Where was the blood you say you cleaned up?—On the floor.

Were there any chairs?—One chair near the door, and one chair between a cupboard and dressing-table.

Was any blood on the chair?—I do not know, as it was night. I have not cleaned any blood off the chair.

Did accused or Mrs. Knowles give you any clothes?—No.

Have you ever seen this garment before?—Yes, I have seen it for Missus.[1]

And this?—Yes, for Missus.

And this?—Yes, for Missus (two under-garments).

When you put the revolver under the pillow on Saturday, was it in the bag produced?—It was in the bag.

Have you ever cleaned the revolver?—No.

Do you know of its having been cleaned?—No. Since this palaver happened, I have never made the bed. I do not remember what dress Missus was wearing that Saturday. On the Wednesday after this palaver the Police Commissioner, Mr. Morris, came, and also the Superintendent told me to take the wardrobe outside and

[1] This is the garment spoken to by the witness Smith.

pack Missus's dress. I did so and found some small thing all the same I show you inside the cupboard when I take the dress out. I would recognise it if I saw it. It was like the thing shown me (bullet shown to witness). Missus's dresses were kept in the wardrobe.

Cross-examined by the ACCUSED—Had you a proper licence book?—No, but I had testimonials which I showed Missus.

The Missus engaged you?—Yes.

Did I ever threaten to flog you before this palaver?—No.

Why did you take the bullet from Kofi as he was senior to you?—I took it lest it should be lost. I told Kofi, lest it be lost, " Let us take it for pantry."

Did you not say I hit you and told you to go away in other Court?—You told me to go away.

Then why were you staying?—You knocked me on the head and told me to go away, and I went to pantry.

Did you polish any of the floors on Sunday?—No.

Did you polish the wardrobe on Sunday or Monday?—No.

When did you first see this hole in the wardrobe?—On Wednesday.

Did any one point it out to you first?—Mr. Morris did, and asked me if I had seen it before.

Were you cleaning out the wardrobe under supervision when you found a bullet?—Yes.

Where did you find the bullet?—On the shelf.

Was it on the top of the clothes?—No, there were four or five dresses on the top.

From the time of the injury, did you take the mosquito net up?—I tucked it in on Saturday. I did not touch it again.

Were there other holes in the mosquito net?—Yes, but this was different.

Why did you not mend it?—Because it was always broke; when we mend it to-day, to-morrow it breaks.

Sampson

When was the first time you saw the hole in the table?—On Wednesday.

When was the first time you examined the table?—On the Wednesday, when Mr. Morris showed me the hole and told me examine it.

When Dr. Gush came on Sunday, was there a table-cloth?—No, there were newspapers.

Did any one show you papers with holes?—No.

How many days before the accident had the washerman come?—About four or five days.

Re-examined—Were you head steward?—Yes.

And Kofi?—Cook.

By the COURT—How many wardrobes were there?—One in the bedroom and one in the dressing-room.

Was the one in the bedroom in good order?—No.

No holes in it?—No.

Who did you first tell that Kofi had found a bullet on the floor?—The Superintendent of Police.

Did you tell Mrs. Knowles?—No, she was crying in bed.

KARIKARI KWEKU KARIKARI, examined—I live at Bekwai as District Commissioner's small boy. I know the accused, Dr. Knowles. I know the last witness, Sampson (identified by witness). On 20th October he came to my master's house about some palaver. My master sent me to Dr. Knowles's bungalow with a book at about 6.30 p.m. I would know it by the marking and the folding. I can read. (Identifies exhibit "L.") I gave it to Sampson. I did not see the doctor. Sampson was holding a pair of shoes.

The ACCUSED—No questions.

JACOB KWAKU AMANKRA,[2] examined—I am motor driver for Dr. Knowles, Bekwai. One Saturday, about

[2] This witness gave evidence in the Twi language and it was interpreted.

a month ago, I drove the accused, about 8 a.m., to business and drove him back at 12 o'clock. At 6 p.m. I went up to the bungalow, and between 6 and 7 I drove the accused to the hospital where he sent me to call the dispenser. He got some medicine and I drove him back.

Did you notice anything about him?—He was just like one who was drunk.

What do you mean by that?—From his eyes, and he could not walk steadily.

Cross-examined by the ACCUSED—Did you not say in the other Court " I noticed nothing wrong with him "?—I thought I was being asked about your character.

Did I get out of the car from the time I got in at my bungalow until I returned?—No.

Did you have your driving lights on?—Yes.

If it were as dark as that, how could you see my eyes and that I was drunk?—I went to the bungalow at 6 p.m.

KOFI BADOO,[3] examined—I am cook to Dr. Knowles, Bekwai, who is now in Court. (Witness identifies the accused.) I work for him as steward boy for a year. Then he went to Europe, and on his return I went to him as cook, for two months before this happened. One Saturday, about a month ago, some people came to lunch with Master. There were three, but I did not see them. After lunch I went to town, and came back about 6.30, and Sampson (identified by witness) told me something. Later I saw Doctor. He came and asked us who went to District Commissioner and complained. By " us " I mean myself, driver, Sampson, and small boy (Amankra and Bondo identified as driver and small boy respectively). I said I had just come from town and did not know what had happened and did not know if steward boy had been. He asked Sampson, who said he

[3] This witness gave evidence in the Twi language. He was "sworn according to religious belief," being evidently not a Christian.

Kofi Badoo

had been and reported. Master was annoyed and said the steward boy should not go and report to District Commissioner. I understand English. Master hit steward boy on the head with a key, and then went back to his bedroom.

Later, while I was in kitchen, Doctor called me. I went to the bedroom. Doctor was there, and his wife was in the bedroom. He said, "I want to send you to hospital." There was some blood on the floor, and Missus told me to clean it before I went, and to tell steward boy to help me. Doctor then got up and said he would go to hospital himself. After he had gone, Missus told me something, and in consequence I went and took a gun from the table and put it in a tin box, locked the box, and gave her the key. She was speaking in a low voice at all times. I can see the table in Court. (Witness points to it.) There were papers on the table. I did not notice what other things were on the table, but there were some articles there. I did not notice if there were a table-cloth or not. I was particular on the gun. I would recognise the gun again. It was like the one shown me. The gun was not in a bag. I and Sampson cleaned the blood up.

Where was it?—On the floor, in front of the table. The table was by the side of the bed, about 4 in. away (by demonstration), the long side next to the bed, and the blood was on the outside of the other edge. I noticed there were chairs in the room, two cane chairs, like the ones I see in Court. (A cane chair identified.) I did not clean any blood off these. I did not see any one else clean blood off them, nor did I ever see any blood on them. When I cleaned up the blood, I found small white thing which I picked up and gave to Sampson.

Do you know what the small white thing was for?—No, I have not seen anything like it before. I was

Mrs. Knowles

shown a thing like it in the other Court; it was shown to me, and I said it was what I had found.

[*Note by Court*—Exhibit not shown to witness until some more or less similar articles are collected for him to pick it out.]

My Master was not present when I was cleaning the room out. While cleaning the room, a boy brought a paper. Sampson held a lamp and Missus read the paper. Later Doctor came back. He called me again and gave me a paper for the hospital. I took the paper to the clerk, Mr. Hansen (identified by witness), who gave me some medicine which I brought back to Doctor. I then asked him what time he would take dinner, and he said he would take nothing. I then went to sleep. Missus did not have any chop. The next day, while I was in kitchen, Master again sent me with paper to hospital and I brought back medicine. He did not take breakfast. I have never heard any palaver about Sampson being employed.

Have you ever had anything to do with your Missus's dresses?—No.

Have you at any time been told to do anything with any of them?—No.

Have you ever cleaned the revolver?—No.

Have you ever heard of any one else doing so?—No.

Were there any cupboards in the room?—Yes, two, both similar to the one in Court. (Witness points to wardrobe.)

Did you ever notice anything about them?—It was only at the time that the Police Commissioners came and took Master that I noticed a hole in one of them like the one in this one.

Was there a mosquito net?—Yes, it was down over the bed when I went in to clean up the blood.

Did you notice anything about it?—Not that night,

but when the white men came I noticed a hole with some black on one side. I would know the net again if I saw it. (Witness identifies the net and picks out the particular hole.)

Have you noticed anything about the table?—It was at the time the white men came that a hole was noticed on the table. This was first time I saw it.

Have you at any time heard a revolver fired?—No.

By the COURT—Did Bondo come in with you to clean up the blood?—No.

Cross-examined by the ACCUSED—When I called you in to go to the hospital, I called you only?—Yes.

After I hit Sampson with the key, do you remember me calling him in, or did he come in on his own?—No, Missus told me to call him to assist.

When you found the thing in the blood, did Sampson ask for it, or did you give it of your own free will?—I showed it to him and he took it.

Did he pull it out of your hand?—When I found it, it was on the floor. I said to Sampson, "Look, something," and he took it from the floor. I never had it in my hand.

How many glasses of blood would there be on the floor?—I cannot say; there was a lot, but I cannot say if there were a full glass.

Was the chair near the door between bedroom and sitting-room?—One was near the door leading to the sitting-room.

And the blood was near the chair?—No, it was near the door.

Where was the table?—Near the head, on sitting-room side.

And the chairs?—One was near the table, and one near the cupboard, the opposite of the bed—the one near the table. The chair was at the side of the table. (Witness places chair slightly behind the table, and

about 8 in. to side, and demonstrates that the blood was in one pool, about 1 ft. in front of chair, stretching up to nearly front edge of table and to within a few inches of the side.)

When I went to the hospital, was it dark?—Yes.

Did you have to have the aid of a lamp to clean up the blood?—Yes.

Your duties as cook did not take you to the bedroom unless specially called by Missus?—No.

You never made the bed?—No.

Then you would not notice the mosquito net specially?—I only saw the hole when the white men came.

Was it on the bed or on the ground?—On the bed.

They took away the net?—Yes.

Did they point out the hole?—They pointed out that particular hole and asked if I had seen it before.

Did the white men point out the hole in the table and ask whether you had seen it before?—Yes, this was the first time I had seen it.

Re-examined—When you went in, did you notice if there was a cloth on it or not?—No. (Witness is shown various articles including the two bullets.)

By the COURT—Will you look at these things and point out the article you saw on the floor that Sampson took?—(Witness points out one of the bullets.)

Further cross-examined—Where did you find this?—On the floor near the blood. (Witness points out a position about 1 ft. from the pool of blood in a direction away from table.)

JOHN WILLIAM HANSEN, examined—I am dispenser at Bekwai, working under Dr. Knowles, the medical officer, Bekwai. On 20th October I dispensed some medicine for Dr. Knowles after the usual day's work; it was a sleeping draught containing aqueous solution of morphia, one full dose B.P. strength. I do not know who it was for. It was to be taken orally. This was between 8 and

9 p.m. The next day, Sunday, I had an order from Dr. Knowles to send a repetition of the medicine, and also to send him up a hypodermic syringe and some ampules of morphia, which I did. The hypodermic syringe shown me is the one I sent up (identifies it). I sent up two ampules. The next day, 22nd October, I went up to the accused's bungalow at about 8 a.m. to get back the syringe. I went into the bedroom. I found him in bed, and he said he would not be able to go down to the hospital that day as he was not feeling well, and that I should carry on. He also told me that Dr. Gush had visited Bekwai on Sunday and had taken Mrs. Knowles to Kumasi Hospital. I asked him if he knew of Dr. Gush's visit, and he said he had not been informed beforehand. I asked what was the matter with the Missus, and he said, " I could not tell you." He then told me to go back to the hospital and carry on with the usual duties, and to report to him again at 6 p.m. Before I went at 8 a.m., I injected him with one of the ampules at his request.

I went back again at 10 a.m. and met two European police officers, one of whom I know as Major Smith; the other I had not met before, but I would know him if I saw him. I saw the Doctor, and he asked me to repeat the injection. I could not do it as the syringe and ampule were in the hands of the police. He told me they had come to take him to Kumasi. He did not appear very well and I helped him to dress. When he was in the car, he said, " Good-bye, Mr. Hansen; if you don't see me again," and then he drew his hand across his throat. I think Major Smith saw this.

I have dispensed for accused during his first tour at Bekwai and this tour. I have dispensed morphia before for his use. Sometimes I have given him an injection; sometimes he asked for an oral dose. When these were dispensed, they were not entered in the hospital books, as they were verbal orders, and I must have a prescrip-

tion to support my entry. I have dispensed for several other doctors in the Government service. I cannot remember if I have dispensed morphia to any of them for their use. On 20th October, when I dispensed the morphia, accused came to the dispensary; I saw him in the car; he did not get out.

Did you notice anything unusual about him?—No.

Cross-examined by the ACCUSED—On the night of the 20th when I came down, was it dark?—Yes.

Could you see my face?—Not distinctly.

How long did you dispense for me last tour?—Seventeen months.

When did I arrive this tour?—October of last year.

During all this period, who kept the key of the poison chest?—I did, except when I was away one week.

Did you ever see me dispense anything?—No.

Have you ever known me to send for the key privately?—No.

How many times in these three years have I asked for an injection?—Not very often.

And soporifics?—I should say about once in two months, single doses.

Did you find any unused bottles?—Yes, on Wednesday, when I helped to take an inventory, I found two unused bottles.

What was the usual mixture?—15 grs. chloral hydrate, 15 potassium bromide, 15 minims of liquor morphine hydrochloride. That is an ordinary B.P. dose.

You would not put me down as a drug addict?—No.

Since you have known me the last three years, you have been the only dispenser I have had?—Yes.

Had I a good or a bad memory for recent events?—You are absent minded many times.

JOHN KANKAM AFFUL, examined—I am superintendent of police, stationed at Bekwai. I know the accused, Dr. Benjamin Knowles. Between 20th and 22nd October

last I did not receive an official report of any kind from the accused or from any one else. On 23rd October I went to the accused's bungalow and there I saw the steward boy, Sampson (identified by witness), who handed me a bullet which I took possession of and handed to Major Smith, Acting Commissioner of Police. It was a white bullet. I would recognise it. (Witness picks out the bullet when shown the two bullets.)

On 24th October the Acting Commissioner of Police and I unpacked the dresses from the wardrobe which is here. Sampson was taking out the dresses, and I saw him pick a bullet out. It was lying on the paper on the shelf, and the dresses had been on the top. The wardrobe is filled with shelves, and there is no provision for hanging up clothes. Sampson handed me this one as well, and I handed this to Major Morris. (Witness picks out bullet from the two bullets.) On 25th October Mr. Mangin, District Commissioner, and I found a box of revolver cartridges in the accused's store. This is the box. I took charge of them and gave them to Major Smith. (Box of .455 cartridges produced.)

I recognise this revolver. Between May and June this year I cleaned it for the accused and took it back to him. This is the only time I cleaned it for him. I do not know of any one else doing so.

Cross-examined by the ACCUSED—You found the box of cartridges in my locked provision store?—Yes.

What was on the top of the bullet in the wardrobe?—There were two or three dresses.

Was there any hole in the dresses?—I did not see one.

WALTER ASHTON GROVE, examined—I am agent for Millers, Ltd., Bekwai. I know the accused Dr. Knowles. On 20th October last I went to lunch with the accused. Mr. Mangin and Mr. Bradfield were present; Mrs.

Knowles was also there. I arrived about 12.30 p.m., had lunch, and left between 2.15 and 2.30 p.m. I noticed nothing unusual during lunch. The accused was normal. In the afternoon I went back to the office.

Do you remember what dress Mrs. Knowles wore?—A whitish dress, to the best of my recollection. I do not remember the details.

Bondo Fra Fra,[4] examined—My name is Bongo Fra Fra. I work for Doctor (pointing to the accused) as small boy at Bekwai. I have been with him one month before this palaver happened. Sampson and Kofi Badoo work there. (Both identified by witness.) One Saturday, about a month ago, my master called three white men to chop. They went away after chop. Missus told us to come at 5 o'clock and pass tea. At 5 I and Sampson came. Sampson was going into the room where Master chops to pass tea. I heard " ping " and Missus was crying. When I heard the noise " ping " I thought it was a gun. Missus was crying, " Ah! Ah! Ah! " Sampson came and told me something. Sampson went off to direction of District Commissioner. The District Commissioner came on a lorry and talked to Doctor. I did not know what he said. Doctor called Kofi Badoo, Sampson, and the driver (Amankra identified by witness), and me. The Doctor talked to Kofi. I understand what he said as I speak English small, small. He said, " Sampson's master is not good; he went to bungalow and made ' Hala, hala,' and said gun has fired." He knocked Sampson on the head with his fist. After, at about 7 p.m., Doctor had gone off towards hospital, Missus called Kofi, and Kofi went into the bedroom and came back and called Sampson, and both went into the bedroom. It was not long and they came back, Kofi holding a bucket full of blood and one of Missus's shoes

[4] This witness is sometimes called Bondo and sometimes Bongo. He spoke Hausa, and was a non-Christian.

also covered with blood. I took the bucket of blood and threw it away. In it I found a handkerchief and a piece of cloth. The handkerchief was a white one. There was plenty of blood on the cloth, so I did not open it, but threw it away. I did not recognise the cloth. I threw it away in the bush near the house. I told Kofi I had thrown the piece of cloth in the bush. The next day, at 12 o'clock, the Kumasi doctor came and took Missus away. About 10 o'clock in the morning I saw her; she was crying, lying on the bed. The bed has a mosquito net which was hanging down, not tucked in. I saw a black mark on the net. I saw this mark that morning. I would know it again if I saw it. (Witness points out blackened hole in the net.)

Who made the beds in the bungalow?—Myself and Sampson.

When did you first see that black mark on the net?—It was at 10 a.m. when I went in to remove the chamber pot.

Do you know if your master had a small gun?—I do not know; when I had worked with him for ten days I found a small gun. The small gun was just like this one shown me, but it was in a bag.

Where were the revolver and bag kept?—It was kept in the sleeping place of the white man. When I prepared his bed, I put it where he sleeps, where he puts his head.

Was it put in the bag or outside?—It was put in the bag.

Did you see the revolver on the Saturday this happened?—I prepared the bed that Saturday morning; the gun was there.

Have you ever cleaned it?—No, I do not know how to clean it, nor have I seen any one clean it.

Have you ever heard a shot fired before this?—No.

Cross-examined by the ACCUSED—You say you understand English and heard the conversation?—(Accused asks that his questions shall not be interpreted.)

Who engaged you as my small boy?—Sampson.

You say here you worked a month; in the other Court you said fourteen days. Which is correct?—I worked for fourteen days, then I am two weeks in Kumasi and do no work.

[Mr. Dsane resumes interpretation.]

What was the cloth that you threw away like?—There was plenty of blood on it, but I did not look at it.

How big was it?—It was a biggish roll. I did not look at it. It was only the handkerchief I washed. I did not see what kind of stuff it was.

By the COURT—Did you tell any one about this black mark that you saw on the mosquito net?—No.

And you are sure you saw it on Sunday morning?—Yes.

Further examined—How many wardrobes had your master?—Two—a small one in which the chamber pot was kept, and the other in which clothes were kept. I see the latter in Court (pointing to the wardrobe). There is another like that one in Bekwai.

Who used to clean them?—Sampson showed me for two days, and after I used to clean it by myself.

Did you ever notice anything unusual about this wardrobe?—No.

When was the last time you cleaned it?—On the morning of the Saturday this happened.

When did you next see it?—On Sunday morning, when I went inside, I saw it.

Did you notice anything about it?—I saw a hole inside; this was at 10 a.m. Sunday morning. (Witness points out bullet hole in the wardrobe.)

Was there a table in the bedroom?—Yes, that is it. (Witness points to the table.) Master used to put papers and drinking water on it.

Was there anything else?—I put the towel on it; but the towel was dirty and I took it off on Saturday morning.

Bondo Fra Fra

When you took the towel off, did you see whether anything had happened to the table?—No.

When did you next see the table?—On the Sunday morning.

Did you see anything then?—I saw blood on it and the hole. (Witness points to apparent bullet mark.)

By the COURT—Did you point this out to any one?—No.

Are you quite sure these various marks were not pointed out to you on the Wednesday?—No.

Are you quite sure it was the Saturday morning you removed the towel?—Yes.

What is the day of the week to-day?—Friday.

Further cross-examined by the ACCUSED—When you came to take the chamber pot, where were Mrs. Knowles and I?—Missus was sleeping. You were in another room.

Where did you take the pot from?—From the small box, which was not in the room where the bed was; it was in the room leading to latrine.

By the COURT—How did you come to notice the table?—I put water on it—drinking water.

Did you generally put the water on the table at 10 a.m.?—No, at night, but the white man did not go to business that day, and on these times I used to put water.

How many times have you done this?—I used to put water on the table twice a day, always in the morning and the evening; these were Sampson's instructions.

SAMPSON, recalled by Court—There was a towel on the table as a rule, but it had not been on for a week; it had come from the wash, but had not been put back.

What day was it taken off?—A week before.

Who took the cloth off?—Missus took the cloth off and gave it to washerman. I am sure of this.

Was the drinking water put on the table?—At night either I or small boy put it.

Did you ever know it to be put on in the day time?—No.

Was it a rule of the house that no boy should go into the bedroom unless he were called?—I do not remember this.

HAROLD PILGRIM MORRIS, examined—I am Assistant Commissioner of Police, stationed at Kumasi. I know the accused, Dr. Knowles. On 22nd October last I went to Bekwai with Major Smith, Acting Commissioner of Police. We went to Dr. Knowles's bungalow; he was in bed reading. There were two beds placed side by side, both covered with one mosquito net. The net was let down. At the head of the bed there was a small table. There were two wicker chairs in the bedroom; one was in front of the wardrobe opposite the foot of the bed, and the other was between the same wardrobe and the dressing-table.

Major Smith explained who he was, and said he was going to detain Dr. Knowles on suspicion of causing harm to Mrs. Knowles. He immediately cautioned him that he need not say anything, but if he did it might be used in evidence against him. He told Dr. Knowles that Dr. Gush considered it necessary, owing to Mrs. Knowles's condition, that a statement be obtained from her, and, in his own behalf, he should be present when the statement was made. Dr. Knowles said, "No, I cannot come to-day." Major Smith further advised him that he should be present at the statement, and Dr. Knowles said, "I suppose I am under arrest?" Major Smith said, "No, I am merely detaining you on suspicion of causing serious harm to Mrs. Knowles." Major Smith again cautioned him that he need not say anything and told him that he was not forced to go to Kumasi, but that, if he did not, then he would obtain

a warrant for his arrest and take him there. Dr. Knowles said, " Very well, I will dress and come." He then got out of bed, and I noticed the sheets on the bed in which he was lying had large patches of dried and congealed blood. His pyjamas had also marks of dried blood. Further, there was a blackened hole in the bed, in the head of the mosquito net which covered part of his bed; this was about 6 in. above the top of the mattress, on the outside of the bed nearest the door to the lounge. (Witness points out blackened hole in the net.) The hole has been enlarged since I saw it. Dr. Knowles seemed to understand all that was happening, but he appeared to be very dazed, weak, and unwell. He had to be assisted to a chair by Major Smith and myself. He repeatedly stated that he was unwell; that the whole affair had upset him very much; and that his nerves were bad. He ordered his boy to pack some clothes for his stay in Kumasi. Major Smith asked Dr. Knowles whether he objected to his taking away the net and the sheets, and Dr. Knowles told him to take whatever he wanted.

On examination of the bedroom I saw Major Smith find a revolver holster under the pillows upon which Dr. Knowles had been lying. I would know the holster again. (Witness identifies it.) In the dressing-room, lying on a uniform case behind a swinging screened door, I saw a woman's blood-stained garment which I showed to Major Smith. I would know this again. (Witness identifies it.)[5] When Dr. Knowles finished dressing, he went into the sitting-room, and I followed him. A native came in, and Dr. Knowles said to him, " This is a bad business, Mr. Hansen; I may go to prison." Mr. Hansen said nothing. Dr. Knowles again said, " Mr. Hansen, my nerves are very bad; get me something for them; it is in there," and pointed to

[5] This is a garment spoken to later by Major Smith.

the bedroom. Mr. Hansen did not move. Dr. Knowles again said, " Get me some," a name I did not catch; " it will calm my nerves." Mr. Hansen then tried to take from this small table a small metal box containing a hypodermic syringe and a small capsule. I stopped him. I think this is the box. Major Smith took it.

Just before leaving the bungalow, Dr. Knowles said to Mr. Hansen, " Well, Mr. Hansen, if I don't see you again soon," and then made a motion of drawing his finger across his throat, and looked upwards. On the way to Kumasi Dr. Knowles appeared normal and asked several personal questions as to how I liked the country, &c.

On arrival at Kumasi he was taken to my bungalow, No. 4, and Major Smith left to swear to a warrant. While he was away, Dr. Knowles several times said, " The whole business is very bad." I reminded him of the caution Major Smith had given him at Bekwai, and he said, " That's all right; I don't care what happens to me; I am worried about my wife." A little later he said, " If my wife rolls up, it means a murder case "; and again, " It is a bad show and has upset me very much; if my wife rolls up, I will be hung by the neck until I am dead." He again asked me several personal questions.

At about 2.25 p.m. Major Smith returned and told Dr. Knowles that he had a warrant for his arrest for causing dangerous harm to Mrs. Knowles. He cautioned him again that he need not say anything, but if he did it might be used in evidence against him. Major Smith asked Dr. Knowles whether he would read the warrant himself or have it read to him. Dr. Knowles said, " Please read it to me." Major Smith did so and arrested him at 2.30 p.m.

I was not present when Dr. Knowles got into the car to be taken to hospital. I was at the Police Magistrate's Court when Dr. Knowles was brought up and remanded.

F.—Warrant of Arrest.

In the Supreme Court of the Gold Coast Colony.

To the C.O.P., Ashanti, this Court.

Whereas Benjamin Knowles, of Bekwai, is accused of the offence for that he on the 20th October, 1928, at Bekwai, and within the jurisdiction of this Court, did use a certain fire-arm, to wit, a revolver, with intent unlawfully to cause dangerous harm to one, Mrs. M. Knowles. Con. sec. 203, cap. 16.

You are hereby commanded in His Majesty's name forthwith to apprehend the said Benjamin Knowles and produce him before the Court at Kumasi.

Issued at Kumasi the 22nd day of October, 1928.

(Sgd.) F. M'Dowell, Ag. C.J.A.

This warrant was personally executed by me in bungalow 4 in the presence of A.C.P. Mr. Morris at 2.30 p.m. on 22-10-28. (Sgd.) H. E. Smith, A.C.P.

Kumasi, 22-10-28.

On Tuesday, 23rd, I again went to Bekwai in company with Major Smith and Mr. Simmons, Assistant Commissioner of Police. We examined the bedroom and dressing-room. A bullet hole was found in the door of the wardrobe in the dressing-room; there was a mark in the back of the wardrobe. In the bedroom a bullet hole was found in the small table at the head of Dr. Knowles's bed. This is the wardrobe. (Witness points out the hole and mark at the back. Witness also points out the hole in the table.)

I made various measurements in the bedroom and dressing-room, and made a rough plan at the time. The inside measurements are 13 ft. 6 in. wide and length 20 ft. There were two beds, side by side, touching, with the head of the bed towards the division wall between the lounge and the bedroom. Nearer the door to the lounge there was this table. This wardrobe was against the dividing wall between the bathroom and dressing-room, 2 ft. 6 in. from the outside wall of the dressing-room. With a long length of string, from the inside

mark of the wardrobe, threaded through the hole in the door, and carried along over the top of the mark on the small table, I found these three points in alignment. I carried on the string to the edge of the bed; from the hole in the cupboard door to the edge of the bed was 19 ft. 6 in. From the outside wall in the dressing-table to the hole in the cupboard door was 4 ft. 2 in., and from the edge of the cupboard to the hole in the cupboard door was 1 ft. 6 in. From the mark in the back of the cupboard to the inside corner of the wardrobe was 10 in. From the floor to the hole in the cupboard door was 2 ft. 2 in. The mark from the inside of the cupboard to the floor was 1 ft. 7 in.

[Court examines cupboard where mark at back appears higher than the hole in front.]

By the COURT—Will you look at these holes?—The inside mark appears higher than the hole. The height of this table is 2 ft. 4 in.

What do you mean by the holes being in alignment?—They were straight in plan.

Did you carry out a search?—Yes, but I did not find anything. On the top of one of the cupboards there was a suit case with some odds and ends, and a pair of Indian clubs.

Did you look for any special articles of women's clothes?—Yes, I looked for a lace dress, but did not find one. On Wednesday I went down again to bring back some exhibits and to make a further search. I did not find the dress. I instructed Sampson, one of the steward boys (identified by witness), to empty the wardrobe in the dressing-room. Whilst he was doing that I went into the bedroom. While in the bedroom Superintendent Afful gave me a bullet. (Witness picks out one of the bullets which had been exhibited.)

HAROLD PILGRIM MORRIS, *examination continued*—When you say you carried the string to the edge of the bed, what do you mean?—I mean to the edge of the mattress. The mosquito net was not then on the bed, but, from my general recollection, the end of the string would have come to about the same position as the hole in the net.

What did you search for particularly on Tuesday and Wednesday?—Chiefly bullet marks on the walls and furniture. I found no other holes than those on the table, net, and wardrobe.

Cross-examined by the ACCUSED—Have you had much experience of examining men under the influence of drugs or drink?—No.

If I tell you that Dr. Gush said I was dazed, and suffering from the effects of alcohol, morphia, and shock, do you still say I was normal?—You were able to converse in a rational manner and you appeared normal.

You did not submit me to any tests nor did you examine my eyes?—No.

Do you admit a man must be a raving maniac before you consider him mentally abnormal?—Not necessarily.

Did you know if there were any experiments carried out with that or a similar revolver or bullets after passing through wood?—No.

How was the bullet hole in the table?—It was nearer the outer edge and nearer the foot of the table. The bullet has gone through the table.

The bullet went from right to left, measured along the length of the bed as a base?—In the position I saw it, it was so.

By the COURT—Do you know if the table had been moved?—I do not know.

What was the length of the string?—From the mark on the wardrobe to the edge of the bed was 21 ft.

Was the string running quite clear in the hole?—As far as I remember it was just touching one side towards the top of the hole.

Were there bed clothes on both beds?—I think the one Dr. Knowles was not lying in had only a blanket over it.

Who held the string against the mark inside the cupboard?—I do not know. Mr. Simmons and Mr. Hansen were assisting. I do not know if any one else was present.

Re-examined—Were the louvred doors fastened back when you made the experiments?—They were not fastened back; they were just swung back and stayed of their own accord; they were open when we came in.

How was the string held?—Some one had his thumb against it. There were no instruments of any kind to hold it in place.

Harry Edmonstone Smith, examined—I am a major in His Majesty's Reserve of Officers and Acting Commissioner of Police, Ashanti. On 22nd October last I received certain information. I instructed Assistant Commissioner of Police, Mr. Morris, to come with me to Bekwai. I went to Dr. Knowles's bungalow and went into the bedroom. Mr. Morris was then standing in the dressing-room. In the bedroom I saw two single beds, side by side. Both were covered with one mosquito net. Facing me as I went in at the bedroom door from the lounge, there was a wicker chair standing in front of a cupboard; there was also a dressing-table; between the dressing-table and the cupboard was another wicker chair. These were the only two chairs I saw in the bedroom. By the side of the bed nearest the door I went in at was a small deal table. It had no cloth on it, but there were books and papers on the top, and I noticed the impression of what appeared to me to be the

butt of the palm of the hand in blood, on the far corner from the head of the bed. The mosquito net was down. Lying on the bed nearest the door and this table was Dr. Knowles. I knew the accused before this case. He was lying on the bed in pyjamas reading a piece of paper; it was an ordinary letter connected with his professional duties. I said to the accused, " I am Harry Edmonstone Smith, a police officer, and I am going to detain you on suspicion of causing grievous harm to Mrs. Knowles." I immediately cautioned him. I told him that Dr. Gush had said that Mrs. Knowles was in a dangerous condition, and it was necessary for a dying declaration to be taken. Dr. Knowles said, " I cannot come to-day." I told him it was advisable on his own behalf to be present when such a dying declaration was being taken. Dr. Knowles said, " Am I under arrest? " I told him he was not. I had no warrant, but I told him that if he did not come voluntarily I would obtain a warrant. He immediately was perfectly willing to come. He got out of bed, and one could see directly that he was very weak and ill. Mr. Morris and I helped him to a chair, as he could not have walked there himself. In spite of his weakness and illness he appeared to realise what was happening and was quite rational. Several times he repeated that his nerves were all gone. He was sitting on a chair and he sponged his face and brushed his teeth, and told the boy to pack a suit case for him. I asked him if he could tell me anything about a lace frock that his wife was wearing at the time of the incident, and he said he expected it had been washed, thrown away or burnt, or something. I noticed that about 6 in. from the mattress, and 18 in. to 2 ft. from the head of the bed, there were two smoked holes in the net. By " two " I mean the net was a double one. The hole was on the side of the net nearest the door. I also saw that the sheets of the bed on which Dr. Knowles was

lying were blood stained. I told him I was going to take possession of the net and sheets. He told me to take what I wanted. As I was removing the bedding, I found an empty revolver holster under the pillow. I showed him this, and Dr. Knowles said, " They took the revolver yesterday." At that time Dr. Knowles was sitting on a wicker chair in front of the cupboard in the bedroom. He said, " I think she will roll up, you know." Mr. Morris then pointed out a lady's pink blood-stained garment in the dressing-room. It was either on the louvred door or lying on a dressing-case, I have forgotten which. I took it away. I later examined it and found a hole that might have been caused by a .455 bullet, in my opinion, but it might have been an ordinary tear.

Dr. Knowles then went into the sitting-room with Mr. Morris. Mr. Hansen, the medical dispenser, was there, and a boy or two boys, and one of them put on the accused's shoes for him. I saw a metal box on the table, by the side of which was a small unopened ampule marked " morphine," and in the box a hypodermic syringe. I took possession of these. I went into the lounge where Mr. Morris, Mr. Hansen, Dr. Knowles, and the boys were. Dr. Knowles was in a violent sweat. He had a whisky and soda and one or two cigarettes. Just before we came away from the bungalow, Dr. Knowles looked round at Mr. Hansen, and I heard him say, " Mr. Hansen, if I don't see you any more," and then he passed his hand across his throat. On the way to Kumasi Dr. Knowles appeared perfectly rational, but was still sweating violently. Mr. Morris was in the car with me. I heard Dr. Knowles conversing with Mr. Morris to the effect that he had not seen him before, and was it his first tour. Accused smoked one or two cigarettes and dozed once or twice. In Kumasi I left him in Mr. Morris's bungalow, and then I came

in and swore to a warrant for arrest and returned with this to Mr. Morris's bungalow. Dr. Knowles was sitting with Mr. Morris. There was a pail between his legs in which he had apparently been sick, but there was no solid matter. I told him I had a warrant for his arrest in my hand for causing dangerous harm to Mrs. Knowles, and before I executed it I repeated the caution I had already given that morning. I asked if he would like to read the warrant, and he asked me to read it to him, which I did. I then formally arrested him. His first words were, " I am under arrest now, am I? " I said, " Yes." He said, " What happens; I am worrying where I shall sleep." He then asked me, " Have you heard how the Missus is? " I said I had not. The time I executed the warrant was 2.30 p.m. on 22nd October, 1928. It is signed by F. M'Dowell, Acting Circuit Judge of Ashanti, whose writing I know. I endorsed it and now hold it in my hand. (Warrant put in evidence as " F.")

I then told him it was necessary for him to come to the hospital while Mrs. Knowles made her statement. I helped him into the car. Mr. Morris was not present. Getting into the car, Dr. Knowles said, " It is a bad show; if she rolls up, I am afraid I am for it." Mr. Morris then joined us in the car, and we went to the hospital. At the hospital I took Dr. Knowles to Mrs. Knowles's ward. Mr. Morris was not present in the ward. In the ward were Captain Burner and Dr. Gush. Captain Burner handed Dr. Knowles and myself formal written notice that he was going to take this declaration. When the Bible was being passed for Mrs. Knowles to take the oath, Dr. Knowles said, " Now, my dear, tell the real truth." Mrs. Knowles appeared to be somewhat irritated and said, " I shall tell the real truth," or " I am going to tell the real truth." I think it was the former.

Evidence for Prosecution.

At the end of Mrs. Knowles's statement Dr. Knowles was asked if he would like to ask any questions, but he declined. That same afternoon he was brought before the Court, owing to absence of both Police Magistrate and District Commissioner, and remanded for a week. Prior to leaving Bekwai with Dr. Knowles, I gave instructions for a sentry to be placed on the bungalow.

After the statement of Mrs. Knowles had been taken, Dr. Knowles mentioned that he was under arrest. Mrs. Knowles appeared to be surprised and said something to the effect that Dr. Knowles could not have done it as he was in bed at the time.

The following day I went to Bekwai with Assistant Commissioner of Police, Mr. Simmons, and Mr. Morris. On arrival Superintendent Afful (identified by witness) handed me a used revolver bullet of which I took possession. It appeared to be a .455. Between the dressing-room and the bedroom are two louvred doors. These were wide open when I first went into the house and were still open on this occasion. In the dressing-room I noticed the wardrobe. It had clothes in it. I saw a hole in the wardrobe with a crack up and down from it. I opened the door and found all the woodwork was torn and jagged. In my opinion this had been recently done. On the first shelf were some lady's clothing and one or two garments, and, immediately above, another impression as of a bullet. I examined the louvred doors and there was no sign of any bullet mark on them. Mr. Morris and Mr. Simmons also examined them. Later Mr. Morris drew my attention to the table which has a thin match-board top, and I noticed a hole which, in my opinion, had been caused by a bullet. I looked under the table and formed the opinion that the bullet had been recently fired. My reason for saying this is that it is unusual for boys to clean the underpart of the table, and there was no fluff

on the fracture. I do not know if there was any fluff on the rest of the table. The fracture appeared new to me. I held the end of a piece of string against the impression at the back of the wardrobe, threaded it through the hole in the door, continuing this string in a straight line at the same angle, and it came to the bullet mark on the top of the table. Continuing it still farther, it came into approximately the same position as the hole in the mosquito net would have been if the net had been down. Mr. Morris, Mr. Simmons, and Superintendent Afful were there. We searched the dressing and bedroom floors, ceilings, and walls for any other sign of a bullet hole, but could not find one. I gave instructions to Mr. Simmons and Mr. Morris to search all round the compound for any signs of a lace frock. I myself searched the latrine.

I took statements from Mr. Mangin, Mr. Grove, Mr. Bradfield, and the boys. The mark at the back of the wardrobe is distinctly higher than the entrance hole. The hole in the front is obviously not made by a bullet in its proper line of flight. On the under lip of the table is a slight nick. This might cause a rotary direction in any way. I was machine-gun instructor to Brigade and Divisional schools during the war and obtained a " D " at Bisley, and I have experience of revolvers.

The following day I instructed Mr. Morris to proceed to Bekwai to make a further search for bullet holes and a lace frock, and to make any other investigations he thought fit, and to bring in certain articles of furniture to Kumasi. Mr. Morris returned with certain articles of clothing, bedding, furniture, and a bullet, with a small piece of metal which had obviously come from a bullet, as the marks of rifling were on it. When I saw the two chairs I have mentioned, there was no mark of blood, with the exception of small splashes of what

appears to be blood on the legs. They are very small splashes. I mentioned a revolver; it was handed to me on the 20th by Dr. Gush; it was unloaded. Dr. Gush also gave me five cartridges and one empty cartridge shell which had been fired. The revolver fitted the holster I had seen under Dr. Knowles's pillows early that morning. There were granules of powder in the barrel. The revolver appeared to be in a clean condition otherwise. It was a .455 service revolver. It is a type that cannot be fired unless the trigger is actually pressed; if the hammer is pulled back and let go, the firing pin will not come through the firing-pin hole and strike the cartridge. This is a safety device which is common on most service revolvers. It has a double action; you can pull the hammer right back and press the trigger, or press the trigger right back when it cocks itself and fires. If you do the latter, it requires a strong pressure to fire. The revolver is a short Webley, mark 5, and is of considerable weight. The weight of the revolver is not sufficient to send it off even if the weapon be cocked. (Revolver put in evidence.) The five cartridges and empty shell given me by Dr. Gush were in my custody till they came to the lower Court. They are the ones shown. (Put in evidence.) They are either .455 or .450; either size will fit a .455 revolver. They fit the one produced. The spent case is the same calibre.

The mosquito net produced is the one I brought up from Bekwai. When I brought it up, the hole was about the size of a half-crown. The outside one has now been greatly enlarged and split; the black has worn off to a certain extent. I can recognise the inside hole, which is the same as when I saw it. This is the table Mr. Morris brought from Bekwai and handed to me. This is the blood-stained garment that I brought up myself when I fetched Dr. Knowles. These are two lace undergarments given me by Mr. Morris; one is blood stained.

The letter (exhibit " L ") was given me by Mr. Morris; it is in Mr. Mangin's writing which I know. The holster produced was the one I found on the 22nd under the pillow of Dr. Knowles's bed. These are the hypodermic syringe and ampule which I seized on 22nd October. The two chairs shown me are the two wicker chairs I saw in the bedroom, which Mr. Morris brought. The one with the cane slightly broken was in front of the cupboard, and the other between the cupboard and dressing-table. This is the wardrobe which I saw and Mr. Morris brought up. It is the one I carried out the string experiment on. It was against the wall facing you as you went from the bedroom to the dressing-room. The box of .455 cartridges was handed me by Superintendent Afful on the Saturday after this occasion. Of the two used bullets shown me, I recognise this as the one given me by Superintendent Afful on the 23rd October. I recognise it by the distinct furrow. (Picks it out.) The other one with the small piece was brought me by Mr. Morris on the 24th. The base is closed right over. The paper shown me was the notice given me by Captain Burner which I received in presence of accused. The plan (exhibit " B ") was given me by Mr. Hayfron who made it at my request.

When I went to the bungalow, the beds were against the party wall between the lounge and the bedroom. The table was just on my left as I entered, but not touching the wall. The cupboard was opposite the door and was the same size as that exhibited; then came a wicker chair and a dressing-table in front of the window. There was a wicker chair in front of the window. There was a wicker chair in front of the cupboard. The wardrobe produced was against the party wall between the bathroom and dressing-room.

In your opinion, as a musketry expert, do you think the bullet exhibited could penetrate this table, a human

body, and the wardrobe?—By the fact that there was only a mark at the back of the wardrobe, if this is the bullet, it must have met a very serious obstruction in its flight. Had the back been against a wall, so as to form a dead stop, a bullet that had not met obstruction must have mushroomed, and if not against the wall the back would have pierced.

Cross-examined by the ACCUSED—Did you experiment with this or any other revolver?—No.

Do you remember which boy I told to pack?—No.

Have you had any experience of the stopping power of a human body—large muscles and viscera?—No.

HARRY EDMONSTONE SMITH—(Witness demonstrates that the line of string corresponds to the mark of the bullet on the table, but it does not correspond exactly with the line between the mark on the top and the mark on the heading.)

By the COURT—Who pointed out the holes?—I found the hole in the wardrobe and mosquito net. Mr. Morris pointed out the hole in the table.

Was there any evidence as to how the second bullet found on the floor came there?—No.

Could not the grooving on the bullet exhibited have been caused by passing through the table?—No, the table is very soft. A service Webley revolver .455, loaded with cordite, has a muzzle velocity of near 700 ft. per second. It is sighted to shoot accurately at 50, and its extreme range is in the vicinity of 1500 yards.

The ammunition box contains cartridges marked "Smokeless powder." (Witness opens one of the cartridges.) They are loaded with yellow cordite.

Re-examined—Why did you not carry out experiments with a revolver as suggested by the accused?—It is my business to hand it to the lower Court in the same state as I received it.

HOWARD WALTER GUSH, recalled by the ACCUSED—Do you remember seeing a lace frock of my wife's?—Yes, Mrs. Knowles pointed it out. It was hanging on a door between the bedroom and dressing-room. It was Chinese white.

By the COURT—Was it blood stained?—I did not see any blood stains.

In your opinion is it possible for a bullet which had passed through the table in Court to have made such

small entrance and exit holes?—In my opinion it is improbable. From the nature of the wounds I am of opinion that the bullet passed through Mrs. Knowles's body without having struck any firm article previously.

Evidence for the Defence.

BENJAMIN KNOWLES (prisoner on oath)—I am a qualified medical practitioner, and am Medical Officer for Bekwai District. I did not murder my wife, nor did I fire the shot that killed her. There is no evidence of intent.

I was very fond of my wife and she was fond of me. There was no money trouble. For some days before the accident my wife had been menstruating. She suffered this tour a good deal from vicarious menstruation. I believe she was approaching the menopause. If she were not going out, she used to wear a big pad of cotton wool between her legs. We had occasional quarrels, and when in this condition, especially if she had drink taken, she became hysterical.

We had a lunch party on the Saturday. I had a certain amount of drink taken, but I was sober. My wife and I had one or two drinks after the party had gone and a quarrel arose about nothing—I forget what. I paid no attention to it. I had been sleeping badly for some nights and felt frightfully tired. I went to bed with a towel round me, and very soon was half asleep. I saw Mrs. Knowles come in and start to undress. I heard a shot fired. It woke me immediately and I heard my wife say, "Oh, my God, I am shot." I jumped up immediately and said, "Show me; show me." She had been sitting on one of the cane chairs, which was near the door to the lounge. I think she was then only in a dressing-gown. I looked at her at once and saw the wound on the left gluteal fold. Blood was pouring out here at an angle of nearly 45 degrees in a continuous

stream of nearly the diameter of a pencil. My first instinct was to stop the bleeding, although she was in great pain. I had some cotton wool and dissecting forceps in the bungalow, and I plugged the main wound with iodine. There was considerable *vis a tergo* in the stream and it took me some little time to stop the bleeding. I then plugged the other wound in the abdomen, and got her into bed. She never fell down, but was standing on her feet the whole time. She was still in great pain, and I gave her a little brandy or whisky and milk. I then gave her some sleeping draught which I had in the bungalow, chloral hydrate, potassium iodide,[6] and morphine hydrochloride. At that time I was not drunk. I had taken drink and was sleepy, but not drunk. I also took some of the draught myself. By this time I had put her to bed. She was still in great pain and said to me, "People will think I have done this purposely." I said, "All you have to do is to lie quiet. I will take all the blame for it." The boy Sampson had gone over by this time to Mr. Mangin, who came to my bungalow at about 5 p.m.

I remember going into the lounge to get myself a drink. I was then naked. There was no one about. I then got a towel and put it round me and went out to the door of the lounge. Mangin spoke to me from his car. I knew he could be of no assistance to me as regards my wife's recovery, and my sole anxiety was to help my wife.

After Mangin had gone I went down to the dispensary and got the morphine. I vaguely remember the note coming, but I did not read it as no one could help me and I did not wish to be bothered. When I went to the dispensary, I was only away about a quarter of an hour. I never got out of the car. During that time the boys were cleaning up the blood. I had only told Kofi to do

[6] Probably a mistake for potassium bromide.

this, and Kofi in his evidence said they had to use a lamp, and Mr. Hansen says the hour I went to the dispensary was between 8 and 9 p.m. A short time before this—I do not know how many months—there had been a burglar scare in Bekwai, so bad that the District Commissioner put on a special night patrol. Ever since that time, always before turning in, I was in the habit of taking the revolver out of the holster and putting it on the top of a bookcase just at the back of the head of the bed. I was invariably first up in the morning, and the first thing I did was to uncock the revolver and put it back in the case.

On two occasions, once during my last tour, and once during this tour some months ago, my wife fired a revolver near me to scare me. She was in a hysterical mood and was a bit of a gun woman. A shot during the night would not wake up any one, as there are constant noises of that sort, Dane guns,[7] &c.

The bedroom on the whole was generally very untidy, the room too small for married quarters. The two boys, Sampson and Fra Fra, the latter of whom I do not remember engaging, must have had a sudden fit of zeal on Saturday morning if both had cleaned the wardrobe. The boys all said that the holes were pointed out by the police. Dr. Gush has stated that what I did was good practice. Sampson and Bondo both said there was no hole in the wardrobe on Saturday morning, but this is

[7] "The Dane gun is about 6 feet long, with an enormous barrel, down which the charge is poured, and the wad and shot rammed. It is fitted with a flint lock and powder chamber at the butt end, and resembles the firearms of the Middle Ages. Its range is about 200 yards, and it is deadly at about half this distance. The missiles employed are of various kinds, telegraph wire cut up into little pieces having been used a good deal in this war, but lead and iron slugs are the commonest. These are sold as bars which are chopped by the natives with a large knife into small irregular cubes. The favourite charge is a couple of dozen or so of these, mixed with one or two big iron ones."—*The Relief of Kumasi*, by Captain Harold C. J. Biss, 1901. The Danes were early on the Gold Coast, having one fort about a quarter of a mile from Cape Coast Castle. The Dane, or Trade, gun presumably took its name from them.

the hole Mr. Bradfield mentions he saw, and it is only lack of observation. Mr. Bradfield also stated he saw no signs of repair. Neither Sampson nor Fra Fra had been in my service for a month.

On the Saturday night, in addition to the sleeping draught, I gave my wife morphia. I was half-asleep when the accident occurred, but I am nearly sure she only had on the nightdress now in Court. She had been undressing for some time, and, as she often did when she had had a little too much, she threw the garments on the chair. I cannot pretend to know how the bullet was fired, but the wound through her body was from left to right as opposed to the track of the bullet shown by the table which is right to left.

My wife was a big woman, and the wound as described would have a very great stopping power on a bullet.

When Dr. Gush examined her, she was bleeding from the uterus, but I did not connect it with the wound, as she had been menstruating two or three days previously. I surmise that the bullet passed through the pad, which would be thrown away in the latrine when my wife went the next morning.

The bullet found by Kofi was possibly the one that killed my wife. There is a tremendous stopping power in the human body, and even a nick against the iron bedstead would be sufficient to stop it altogether.

Bongo Fra Fra says he saw the hole in the net at 10 a.m. Sunday, but never told any one.

I admit that after treating my wife I took a lot of drugs and drink. I was still obsessed with the idea, when Dr. Gush came, of taking the blame and not allowing her to be cross-examined as I knew the necessity for absolute rest.

My wife told Dr. Gush on the Sunday that the accident had been caused by her catching the revolver in her lace frock. The prosecution have suggested that this statement and the one at Kumasi were untrue. I do not

know what has become of the lace frock which Dr. Gush saw, but I am positive she had taken it off at the time of the accident.

When I woke up with a start, my wife was standing near the chair by the door to the lounge. The chair was between the table and the side of the door. The chair was right against the wall. There was a small bookcase between the head of the bed and the back of the wall, and the head of the table went a little closer to the wall than the head of the bed. I did not actually see which way she was facing when she was shot; and when I jumped up and said, "Show me; show me," she turned her back to me. She was then facing the chair. When Dr. Gush came I had been drinking and drugging. I had the fixed idea of protecting my wife and did not realise until later that the statements were dangerous. I had an idea fixed that I would take any punishment if I could save my wife.

I did not see how the bullet which killed my wife was discharged.

It was some months ago when one of the boys, Barber, ran amok with a revolver and fired two shots at my driver. Some weeks after, I sent it to the police to be cleaned. Before Barber ran amok, some time before, I and my wife had had a late sitting. My wife was again hysterical. She went to bed first. I was cleaning my teeth in the dressing-room. Mrs. Knowles had a lot to do with guns in her life and liked playing with them, and she took up the revolver and fired, not with the intention of hitting me. She fired through the mosquito net and hit the wardrobe, and this is the hole Mr. Bradfield saw. She had brought the mosquito net out with her about seven and a half months ago. It had never been taken down to be washed and, in addition to the hole that has been pointed out, there were countless other holes. The net was never repaired properly.

BENJAMIN KNOWLES (prisoner on oath), cross-examined by the COMMISSIONER OF POLICE—Why does it matter if the police found two bullets or one?—Because there was only one shot fired and no evidence of more than one wound.

Can you account for the second bullet?—It was, to my mind, the bullet that went through my wife, and the one in the wardrobe had been there for months, as Mr. Bradfield's evidence shows.

So the clothes were not moved for months?—Mrs. Knowles was careless about housekeeping. It is quite possible the bottom layers had been there for months. We did not go out much.

Sampson said they were taken out regularly?—They were never taken regularly. Sampson had only been three weeks with me.

You say you did not want to engage Sampson?—My wife ran the house. He came with a series of books, some of which did not appear to be in a white man's writing. I showed some to Mr. Mangin and told the boy to come back, but Mrs. Knowles engaged him in the interval, against my advice.

In spite of your wishes to the contrary?—Exactly, I was doubtful if his testimonials were genuine, and she engaged him against my advice.

You say you had never seen Bongo Fra Fra?—There are so many boys round my kitchen I would not have noticed him. Kofi is a Bekwai boy, and there are many boys round.

You had not seen him about the house?—I had not noticed him.

I suggest you were in such a condition from drink and drugs that you did not see him?—Prior to the accident I was not suffering from drink or drugs.

I understand that your wife used to beat you?—Sometimes, when hysterical, and after a silly argument, she was very concerned about it after. It did not hurt me, and I did not take it seriously, neither did she.

You went out of your way to show Mr. Bradfield bruises?—Yes, I may have done so. I never wore sock suspenders, and I may have just shown him by way of conversation. I did not want any sympathy or anything of that sort.

Would that have pleased your wife?—I think she was there at the time; it was one occasion only.

Did you show a bitten ear to him?—No. Mr. Bradfield or Mr. Mangin saw me with an injured ear, but I did not tell them how it happened.

How did it happen?—My wife was hysterical one night we were in bed; I held her hands and she bit me. I was always in love with her. Immediately after this she was very loving again. These were not frequent occurrences.

You showed Dr. Gush bruises caused by an Indian club?—Yes, I was not mentally capable of knowing right from wrong at the time. If I had been normal, I should not have shown these, but at the back of my mind was the confused idea of taking the blame and protecting my wife from cross-examination and so on.

Your first thought all the time was for your wife?—Yes.

Then why did you show Dr. Gush the bruises?—I was still under the sub-conscious idea to save my wife. I was not in my right senses, from drugs and drink.

How did you think this would help your wife?—I still had the one fixed idea of protecting my wife, as immediately after the accident she said people might think she had shot herself on purpose.

So you went out of your way to prove a motive for the murder?—The question of murder never entered my

head. It would need an expert psychologist to explain. I thought my wife would recover.

You were in such a state from drink, drugs, and shock that you thought you would help matters by saying you had shot your wife?—I never stated I had shot my wife. I said that I had said I would put a bullet through her if she did not leave the room.

What do you mean by taking the blame?—I saw the wounds were serious, but I had thought she would recover at home. She was afraid that people would blame her, and I did not wish her to be cross-examined.

What blame was there to take?—The blame of firing the shot.

Did you tell Dr. Gush then you fired the shot?—I made some rambling statements under the influence of drugs, but I did not say I fired the shot. I do not remember personally what I said.

Do you know Dr. Gush made a statement in the police station?—No, I would be not surprised.

Would you be surprised to learn that Dr. Gush at the police station said ——

[Question objected to. Objection sustained.]

You say you are not a confirmed drug taker?—No.

You got drugs from Mr. Hansen which were not entered in the poison book?—Yes.

Is this usual?—It should be entered up, but if I got a small dose on verbal order for myself and did not put it down, it would be purely departmental.

Do you agree with Dr. Gush's diagnosis?—Yes, the horrible pain my wife was suffering, the horror of the whole thing, and the drugs I had been taking.

Before this you were not suffering from drink or drugs? —No, I had had a little more drink that morning than usual.

What would your usual amount be?—It varied, sometimes a bottle of beer and sometimes a whisky and soda;

that is practically all I took unless, perhaps, some one came up.

When Dr. Gush took Mrs. Knowles to Kumasi, he left you in Bekwai?—Yes.

If you were so ill, why did he not bring you in to Kumasi?—I had no wound, and he knew I was not going to die. That was Dr. Gush's palaver, not mine.

You were not put on the sick list?—I would have to do it myself, and in my state of mind I never thought of it. Sunday is a *dies non*, and but for the shock I would have been all right on Monday.

You were dazed and do not remember what happened when the police took you away?—I was *non compos mentis*. I can only remember being in a car and my hat nearly blowing off.

How did you remember to tell the police that Dr. Gush had taken the revolver away?—One can quite easily remember odd facts, and not be *compos mentis*, that is, cannot reason clearly; and I remember this specially as Dr. Gush asked for it and I did not remember where it was, and Mrs. Knowles had told Kofi to put it away in a uniform case.

You remembered in the car that you had not seen Mr. Morris?—I may have said that, I do not remember. When I saw him in the lower Court I did not remember him again. A man very drunk indeed may remember his diction.

You remembered to tell a boy to pack your clothes?—Even a madman remembers matters of routine like that.

You admit that the revolver is yours?—Yes.

You say you were asleep when it happened?—Not quite asleep. I heard some mumbling going on in the room. I was dozing.

Were you quite normal then?—Yes, except I had had perhaps a drink extra at lunch and one after.

Is Sam correct in saying that you called " Show me "

before the shot?—No, he is telling one of several deliberate lies. He said I shouted "Show me; show me" before the shot; there was nothing to show before.

Why should Sampson lie?—He was the boy who picked up bullets; he hated me. He rushed off to the Superintendent of Police at once and has helped the police. There was a mutual dislike. A good type of boy would have brought the bullet to his master instead of pocketing it and giving it to the police. He is a low-down Cameroon boy, with no sense of honour or truth.

Is there any antipathy between you and Kofi Badoo?—No, I did not particularly take to him. He had been with my wife some time. I had no particular like or dislike.

Do you think he would lie?—That is a matter of opinion. I do not know what a native will do under certain pressure.

Do you suggest pressure has been brought to bear?—From the way they pattered off their evidence I think they had been interviewed before.

Where was the revolver usually kept?—Under the pillow in the daytime. I did not like sleeping with a revolver under my pillow at night, and I used to take it out of the holster, cock it, and place it on the book-case, just at the head of the bed, close to my hand. Occasionally I put it on the chair by the bed.

Where did you keep the holster?—Under the pillow.

Where did you put it when you slept in the daytime?—I used to lie in bed in the afternoon and read, never much more than an hour. The revolver would be left under the pillow. I generally changed over to the bed nearest the window to get more light, *i.e.*, the bed farthest from the door to the lounge. In the morning I used to uncock the revolver and put it in the holster under the pillow.

Was it under the pillow the day of the affair?—It was

very late when we went to bed and I had no intention of getting up early. I wanted to sleep on and get up late before dinner. I took the revolver out of the holster, and cocked it, and put it on the bookcase. My brain is not quite clear about it, but I can almost swear I did it.

Did you load it?—It had not been reloaded since the Superintendent of Police cleaned it.

Did you cock it?—Yes.

Why?—I had got into the habit of doing it. This was an abnormal afternoon, as we did not go to bed till nearly 4.30 p.m.

In the morning you uncocked it?—Yes.

Did you break it?—Partially, but not enough to unload it. I did this for safety.

You were very careful about the revolver?—No, I was not particularly careful.

Mrs. Knowles knew about revolvers?—She was a fair shot and had been with people who really knew about firearms.

Did she know enough to know that a cocked revolver was dangerous?—Yes.

How many firing incidents have you had in that bungalow?—Two bullets were fired by Barlock; there was the wardrobe episode; and the bullet which killed my wife.

Where did Barlock get it from?—He stole it from under the pillow.

Was it not surprising that Mrs. Knowles stood on her feet after a wound with a heavy revolver?—Not after the post-mortem examination. No bone or vital part was touched.

You suggest the human body has such stopping power that a bullet would just trickle out?—I consider that live human flesh and viscera have an astonishing power in the case of a soft-nosed bullet. Each piece of tissue struck goes forward in succession and acts as a secondary

missile, and after it had passed through the wound, and probably the pad of cotton wool at the end, it would have very little *vis a tergo* at the finish. The bladder was probably full of liquid, and the lower part of the bowels would have been solid or semi-solid.

Were you not surprised she still stood up?—A little, but every scientific man gets surprised. If a bone had been hit, she would undoubtedly have gone down. (Witness handed the cocked revolver.)

Can you demonstrate how this would have caught in a piece of lace and gone off?—I cannot demonstrate; it is practically a hair trigger.

When you woke up and saw Mrs. Knowles, what was she wearing?—To the best of my knowledge it was the pink garment shown, which she sometimes wore as a nightdress.

As to the table, the bullet, if fired from the head of the table, would be from right to left?—Yes.

And you say the bullet wound was from left to right?—Yes.

It depends which way she was facing?—When I first saw her she had apparently just risen from the chair and was so close to the door that the wall between the bedroom and dressing-room would have intercepted the bullet. When she shot herself the bullet would have passed through and might have knocked the bed and dropped.

Which way was the chair?—Parallel to the length of the bed, between the table and the door. When she got up from the chair, she would naturally be facing the bed.

You say that Mrs. Knowles said she was afraid people would say she had done it herself?—Yes.

Why did she say that?—I confess that I do not know. She knew there must be an inquiry. She would not like any one to think she had tried to commit suicide or

otherwise have been so foolish with a gun, but this is only my theory.

There was no motive to commit suicide?—None whatever.

Did the police ask you for the lace frock?—I do not remember. I only knew I had nothing and told them to take any exhibits they wished from the bungalow.

You say Mrs. Knowles was in great pain after the shooting?—Yes.

Why did your wife put the revolver away?—I do not know. I was not there.

As a doctor you knew the wound was dangerous?—Yes.

Did you make any attempt to get in touch with others to help?—No, I did not think it was dangerous, as it proved to be, and I gave it symptomatic treatment—that is, stopped the bleeding, gave rest and soporifics, and did not attempt to operate straight away. It is known as expectant treatment.

Would a nurse have been helpful?—Not necessarily at all.

Another doctor would be of use?—By the time I got her into bed and the bleeding stopped, everything would have been closed. There is no doctor nearer than Kumasi. The post office was closed by the time I had got her fairly comfortable, and I would have had to send a car up.

You have a car and a driver?—Yes.

Is it not medical etiquette to call in another doctor to treat your wife?—I think this chiefly applies to midwifery. This was an emergency case, and I was the only doctor in the district.

I suggest you wanted to keep the whole matter quiet?—I only did not wish her to be disturbed at the time.

Do you suggest that Dr. Gush would have disturbed her?—I do not think, personally, that he would have done so.

Did it conduce to her comfort to leave her in blood-stained sheets?—There was a certain amount of oozing, and the great thing was absolute immobility.

What opiate did you have in the house before the shooting?—The sleeping draught I have described; the remains of a bottle we had had for some time. The drug I went down for was pure morphine, to be taken by the mouth, one dose.

You took some sleeping draught yourself?—Yes, some that was left in the house.

Why did you first ask Dr. Gush who had the matter reported to him?—I do not know why.

Why did you tell Mrs. Knowles at the hospital to tell the real truth?—I do not remember asking it. I was still under that obsession.

Did you inquire after your wife after she went to Kumasi?—No, she was in good hands; I was ill, and the police came about midday on the Monday. Mr. Hansen gave me two hypodermic injections.

Are you satisfied Mrs. Knowles was normal when she made her statement at the hospital?—I was too dazed myself to know, but Dr. Gush and Mr. Burner both say so under oath.

On the day the shooting occurred, you did not have any tea?—We had no tea, but a drink was brought in by myself before I got into bed.

Can you account for her saying at the hospital that the boy came with afternoon tea?—From false vanity, that she did not like to say it was whisky and soda and a liqueur. Her memory was not very good, and it must be remembered she died within twelve hours.

She was on oath?—Yes, but she was not in a position to remember everything that happened.

But a boy did not come into that room?—No.

Did she not know the meaning of an oath?—Oh, yes, but she was not a very religious woman.

I suggest that the statement was a sporting effort to shield you?—I entirely disagree.

Why did you point out the hole to Mr. Bradfield?—I really do not remember. I might have suggested it with the idea of its being mended. The wardrobe was made by Mr. Bradfield's carpenters.

Did not you press for the repair?—No. I was used to it and I am a little careless.

How did you forget the hole in the table?—It was mostly always covered with a cloth and littered with papers and magazines. Dr. Gush stated that there was a cloth on. I forget how the hole came in the table. It had not been scrubbed for some time. I think it was done this tour, but I do not remember. The bullet might have been fired during the last tour, but to the best of my knowledge I do not remember it before this case. I agree it is a bullet hole with entrance wound on top and exit underneath.

On this Saturday you admit the table was close to the bed?—To the best of my knowledge it was in its usual position close to the beds.

There would not be room to stand between the table and the bed?—Certainly not.

If it were caused on Saturday, how could it have been done?—I do not think it was caused on Saturday. I think it was some months before. I do not remember seeing it as I am very unobservant. It might have quite easily been made at the same time as the one in the wardrobe, but I remember the one in the wardrobe perfectly. There are other stains on the table that I do not remember; the hole is not very conspicuous.

When was the hole in the net caused?—I had seen that for weeks; it is a very old hole. The last time I remember the net was repaired was some months ago, by my wife and my late small boy.

How many months? Can you remember?—I cannot.

Benjamin Knowles.

Benjamin Knowles

When the hole in the wardrobe was made, what did it hit first?—It might have hit the table first.

Do you think a service bullet would be stopped by a soft table and a wardrobe door?—I do not know; I have no experience.

How do you account for the blackening of the mosquito net not wearing off?—I cannot account for it.

What is it due to?—I should think powder or a bullet or something like that.

Do you think it was made at the time your wife shot at you?—I should think so.

And the hole in the wardrobe at the same time?—I should think so.

By the COURT—When your wife shot past you, was she in bed?—Yes.

You did not notice when the hole in the mosquito net came?—I got so used to seeing it, but I knew it was about the same time as the hole in the wardrobe.

BENJAMIN KNOWLES (prisoner on oath), further cross-examined—As the hole in the net has been there so long, can you account for the powder stain not having worn off?—I cannot quite, but it never was handled as it has been in Court. It has not been taken down and washed since March. I still see a large amount of burning, but the hole is bigger. I have been seeing it for the last four or five months. My wife put that patch over months ago.

When it was brought out in March, it was new?—Yes.

It needed a patch after two or three months?—Yes. It is fine net, sandfly proof. About March there was much moth about.

Having repaired it once, why did she not repair it again?—I frequently asked her, and she used to promise to do so, but at that time we had no mosquitoes.

Where did you keep the revolver before the burglar scare?—I think under the pillow for some reason of my wife, but I cannot remember. I have had an extraordinary bad memory since 17th November. I think she got scared as a big bush pig got into my bathroom. Before that I used to keep it in the uniform case, sometimes on the bookcase, and sometimes under the pillow, but then it was not cocked.

Then it was not on account of the burglar scare you brought it out?—No.

It was only subsequent to the scare that you cocked the revolver?—That is so.

You then kept it on the bookcase?—Sometimes there, sometimes on a chair by the bookcase.

If it was on the chair, you would have to get out of bed to get it?—Yes.

Did you sleep with a light?—Always with a hurricane lamp.

Benjamin Knowles

Why did you keep the revolver cocked? You could fire it as easily uncocked?—I disagree, as two or three times people came to my room for professional purposes and I had to challenge them, and if unsatisfactory I could fire with a much steadier aim.

Are you of a nervous disposition?—I am not; my wife was. She was neurotic.

If you had time to get out of bed, you would have time to cock it?—Firing at night, you cannot align sights, and I point with the forefinger.

You say your wife was hysterical?—At times only.

Was it advisable to keep a cocked revolver about the place?—She was accustomed to firearms.

When you saw your wife shot, you think she had just got out of the chair?—I did not see her get out of a chair myself. The first thing I heard was a shot.

If the blood gushed out as you say, why was there no blood on the chair?—She was upright when I saw her, and she must have left the chair before the shot or just at the time. I did not see. I was out of bed in an instant, and she faced the chair. Blood was pouring out from the wound in the buttock.

You say the chair was against the wall?—Roughly an inch or two away.

If your wife was standing with her face to the chair and the blood was coming from her left side as you describe, how do you account for the pool of blood being close to the table as Kofi says it was?—I should say the blood was going more or less parallel with the table and the bed when she turned round, and I should think the blood would fall round from there.

Your wife was wearing the pink garment?—I think so, but I was too agitated to notice. I know she had only one garment on, as she pulled it up to show the wounds.

Your wife says it caught in her dress with a lace

frill?—This I take it was lying on a chair, but I did not notice it.

If she were not wearing a dress, why should she disentangle it from behind?—I cannot say. I did not see.

When you said to Major Smith, "It is a bad show; if she rolls up, I am afraid I am for it," I suggest you had no thought of this defence?—I do not remember saying that, but I was in a maudlin condition with drugs and drink and grief.

I suggest you were suffering from remorse?—You have no reason to say that. I was suffering from grief, drugs, and drink.

When you went to prison on remand, why did you dispose of your car, gramophone, &c.?—I knew life for me would be impossible on the Gold Coast, and I would be dismissed the service and struck off the register if any decision of any sort was given against me, and I would be suspected by people who did not know all the facts.

Why did you not kiss your wife when she kissed you?—Being a Scotsman, I hate being demonstrative in front of people.

You say there was much moth in the bungalow?—Yes.

Did your wife never take her things out of the wardrobe?—I do not know; we did not go out much. These dresses certainly had not been taken out at the date of the accident. The wardrobe is nearly moth and fly proof. She kept her European clothes in uniform cases.

Tropical clothes in the wardrobe?—I think so.

And as such, frequently changed?—I cannot say. I did not particularly notice what my wife wore. The washing had not been for four or five days before the accident.

If it had been in the wardrobe for four or five months would your wife not have seen it[8]?—She did not see it; she generally put her washing away herself.

[8] "It" is presumably the bullet.

Benjamin Knowles.

Benjamin Knowles

Do you remember what the quarrel was about on Saturday?—I do not remember exactly; it may have been politics. She used to quarrel for the sake of quarrelling; we never had anything serious to quarrel about.

Was a small quarrel like this sufficient to cause your wife to beat you with Indian clubs as you told Dr. Gush? —She used to think an Indian club as sufficient to stop an argument once or twice. I do not remember making this statement to Dr. Gush.

Did she beat you on the Saturday?—I think so, but I am not sure. I did not have any pain. After that I took drugs and I cannot now remember that particular point. The major accident had blotted out all other things.

Do you wish to say anything further as to why the revolver was cocked that afternoon?—I knew I was going to bed for some time and did not intend to get up before dinner time, and I may have done it automatically. Generally I used to half sleep and half read till about 3 p.m.

[Accused does not wish to call any witnesses.]

Friday, 23rd November, 1928.

Judgment by the Acting Circuit Judge.

In this case, Dr. Benjamin Knowles is accused of the murder of his wife, Harriet Louise Knowles, by shooting her with a revolver on the afternoon of 20th October last.

The evidence before me is to the effect that on the morning of 20th October, which was a Saturday, the prisoner and Mrs. Knowles gave a luncheon party to which Mr. Mangin, District Commissioner, Mr. Bradfield, and Mr. Grove were invited. All these gentlemen agree in saying that the luncheon party was a cheery one and that both the accused and his wife appeared normal and sober. The party broke up at between 2.15 and 2.30 p.m.

At about 4.30 p.m. both the steward boy, Sampson, who was commencing to lay the tea things in the lounge, and the "small boy," Bongo Fra Fra, state they heard a shot, followed by cries from Mrs. Knowles. Sampson, becoming alarmed, went off and reported to the District Commissioner, Mr. Mangin, who promptly drove down and said he had heard that a shot had been fired and that Mrs. Knowles had been heard to scream, and asked if there had been an accident and offered his assistance, to which the accused said that it was all right. Mr. Mangin says he appeared normal at the time. Later, at about 6.45, Mr. Mangin sent down the following note:—"Dear Doctor,—Your boy has now been over three times to see me and has evidently got wind up. Naturally I cannot butt in to what is not my concern, but if I can be of any assistance, you know you just have to say so.—Yours, (Sgd.) T. R. O. Mangin." To this letter no answer was returned.

At about 6.30 p.m. the accused called up his house boys, Kofi, the cook, Sampson, and Bongo, and expressed

anger at Sampson having reported the matter, and hit him on the head with a key. The accused then drove off to the hospital to get some medicine. There is a discrepancy in the time as between Mr. Hansen, the dispenser, who states it was between 8 and 9 p.m., and Kofi and the chauffeur, Amankra, who place it before 7 p.m.; but it is agreed that he did not get out of the car and was away only a short time.

During the doctor's absence, Mrs. Knowles, who was then in bed, called to Kofi, and he and Sampson cleaned up the floor. During this process Kofi found a spent bullet near the pool of blood on the floor, which he gave to Sampson, who in turn gave it to Superintendent Afful on 24th October. Mrs. Knowles then gave instructions to Kofi, who took the revolver and locked it in a uniform case, returning her the key.

At this point it may be convenient to describe the room of which a plan was put in. This, however, does not show the position of the furniture. The bedroom is a room of 20 ft. 1 in. by 13 ft., which leads into a dressing-room 10 ft. 8 in. by 10 ft. 10 in., with louvred doors between, which keep open of their own accord. These doors open from the back 13-ft. wall, and are on the left side looking from the front wall. The lounge is on the right side, taken from the same aspect, with a door leading from the bedroom nearly at the end of the party wall as you look towards the dressing-room. There were twin beds, covered with a single mosquito net, with their heads close to the wall, from which they were separated by a bookcase. On the right of the beds, *i.e.*, the lounge door side, was a small deal folding-table, and according to the evidence a wicker chair was next to this, close to the door and slightly nearer the wall then was a table. Kofi showed the position of the chair and table in Court, and demonstrated that the blood was in a single pool about 1 ft. in front of the chair and stretching

nearly to the front of the table and within a few inches of the long side. Both boys swear that they cleaned no blood off the seat of the chair.

Neither Dr. nor Mrs. Knowles took any dinner that night, but a bottle of whisky was taken into the bedroom by Kofi, and the boys then closed up for the night.

The next day, Mr. Mangin, being evidently very anxious, went up to Kumasi to see the Provincial Commissioner and Dr. Gush, the senior surgeon specialist. The latter came down, and arrived at Bekwai at about 4 p.m., where he found the prisoner weak, mentally confused, and suffering from the old effects of alcohol. On being asked what had happened, Dr. Knowles said, "There has been a domestic fracas," and showed his leg covered with bruises, and said his wife had flogged him with an Indian club. He further said she had been nagging him the previous afternoon, and he had told her that if she did not leave the room he would put a bullet in her.

Dr. Gush then went into the room and saw Mrs. Knowles standing at the foot of the bed in a nightdress. In the presence of the accused she said she had been examining her husband's revolver, which had been recently cleaned by the police; that she had put the revolver down on a chair and shortly after sat on it; that she tried to remove it from underneath her, but the open-work sleeve of her dress caught in the trigger and the revolver went off. Dr. Knowles then said, "Speak the truth," to which Mrs. Knowles replied, "Shut up, Benjy. You don't know what you are talking about," to which the accused made no answer.

On examining Mrs. Knowles, Dr. Gush found a bullet wound in the fold of the left buttock, about the size of a threepenny bit, being an entry wound, with an exit wound on the right side of the abdomen about the size of a sixpenny piece. He is of opinion that the wound was

inflicted while Mrs. Knowles was either stooping or semi-sitting.

Seeing the serious nature of the case, Dr. Gush removed Mrs. Knowles to Kumasi Hospital, Dr. Knowles being so dazed that Dr. Gush had to lift him and the chair he was sitting in bodily out of the way in order to leave the room, but on her departure he held out his hand and she kissed him. Before leaving, Dr. Gush asked the accused for the revolver, and he said he did not know where it was, whereupon Mrs. Knowles produced a key, and Dr. Gush unlocked a uniform case and took out the revolver, which was loaded with five live cartridges and one empty shell. He subsequently handed this to the police.

Mrs. Knowles died in Kumasi at 1 a.m. on 23rd October. An autopsy showed two perforations in the bowels, the bladder and lower section of the uterus also being perforated. There was congestion of the base of the left lung, and the heart showed signs of fatty degeneration. In Dr. Gush's opinion death was due to septic peritonitis due to gunshot wound.

On 22nd October Major Smith, Acting Commissioner of Police, and Mr. Morris, Assistant Commissioner of Police, went down to Bekwai where they found Dr. Knowles in bed lying in blood-stained pyjamas between blood-stained sheets. Major Smith warned him that they were police officers, and cautioned him, and told him he was going to detain him on suspicion of causing grievous harm. He also told him that it was necessary to take a dying declaration from Mrs. Knowles, and that if he did not come voluntarily a warrant would be obtained for his arrest. Both Major Smith and Mr. Morris depose that he appeared quite rational, though weak and ill.

Major Smith found an empty holster under the pillow, and Dr. Knowles said, " They took the revolver yester-

day." He also made several curious and significant remarks, to wit, " I think she will roll up, you know. This is a bad business, Mr. Hansen; I may go to prison "; and on saying good-bye, " Well, Mr. Hansen, if I don't see you any more," then drawing his hand across his throat and looking upwards. Again, in getting into the car, he said, " It is a bad show; if she rolls up, I am afraid I am for it."

On arrival at Kumasi, he was taken to Mr. Morris's bungalow, while Major Smith went for a warrant. There he said, " The whole business is very bad." Mr. Morris reminded him of the caution given him, whereupon he said, " That's right[9]; I don't care what happens to me; I am worried about my wife." And a little later, " If my wife rolls up, it means a murder case." And again, " It is a bad show and has upset me very much; if my wife rolls up, I will be hung by the neck until I am dead."

Major Smith then returned with the warrant and took him to the hospital ward, where Mrs. Knowles was lying.

Mr. Burner, District Commissioner, Ashanti, was present with Dr. Gush, and the former handed formal notices and took Mrs. Knowles's statement in accordance with the provisions of cap. 13, sections 46 *et seq.*, of the ordinance of this Colony. Mrs. Knowles signed the statement, which is as follows:—

> " There was a revolver standing or lying on a bookcase, it had been cleaned, I took it up and put it on a table near the bed, the boy came with the afternoon tea, I put the revolver carelessly on a chair near the bed, I took a cup of tea, sitting on a chair, I sat on the gun, as I got up it caught in my dress with a lace frill, I tried to take it away from

[9] Morris in fact said that Dr. Knowles said, "that's all right." See page 77.

the lace, and suddenly it went off, the bullet passing through my leg, I did not realise I was shot until I saw blood running from my leg, I am not in fear of death. "(Sgd.) HARRIET LOUISE KNOWLES."

When the Bible was passed for Mrs. Knowles to take the oath, the accused said, "Now, my dear, tell the real truth." Mrs. Knowles appeared somewhat irritable, according to Major Smith, and said, "I shall tell the real truth," or "I am going to tell the real truth."

Dr. Knowles, though invited to do so, asked no questions after the statement, but he mentioned he was under arrest, at which Mrs. Knowles appeared surprised, and said he could not have done it as he was in bed at the time.

All the witnesses agree that Mrs. Knowles was in full possession of her faculties, but Dr. Gush says that the accused was not normal but was very confused and dazed and suffering, in his opinion, from the after effects of (1) alcohol, (2) opium or morphia, and (3) the shock of the affair.

The accuracy of Mrs. Knowles' statement is challenged by the prosecution, and the case for the Court to decide is as to whether this was in fact an accident or whether Mrs. Knowles' statement was the untruthful effort of a generous woman to save her husband from the consequences of a crime.

The police took certain measurements and brought up a number of exhibits as real evidence, of which the principal articles were: (1) the mosquito net; (2) the wardrobe in the dressing-room; (3) the revolver and its charge; (4) the table by the bed; (5) two bullets.

Now, on examination, the mosquito net was seen to have been mended with a large and somewhat slovenly patch, about 6 in. above the mattress; and 18 in. to 2 ft.

from the head of the bed there were holes through the net and patch. These holes appeared charred and blackened round the edges, and were apparently such as might be caused by a person firing through the net. The table by the side of the bed showed a distinct bullet mark which had penetrated the top and nicked the beading or under stiffening of the top. The wardrobe showed a hole in the front, made, I think, obviously, by a bullet not in its true flight, that is to say, the hole is prolate and not circular, while higher up at the back there is a dent as if of a spent bullet.

Superintendent of Police Afful examined the wardrobe, which is fitted with shelves. Under his supervision the dresses on the shelf immediately under these marks were removed and another bullet was found by Sampson. There was some confusion in Superintendent Afful's mind as to which bullet was found by Kofi and which was in the wardrobe, but I think this matter was cleared by other evidence.

Through the whole case the prosecution have endeavoured to prove that this was the fatal bullet, that it was fired through the mosquito net, that it first passed through the table, then through Mrs. Knowles' body, and finally, after passing through the wardrobe door, it dented the back of the wardrobe and fell on the shelf.

Although only one shot was fired, they offered no evidence, and had no theory, with regard to the bullet picked up by Kofi.

Major Smith states that a string held on the back mark on the wardrobe, threaded through the hole in the door, and then carried on to the top bullet mark on the table would be in line; and although, the net not being down, no absolute measure could be made, it would, if carried on, approximately coincide with the hole in the net. This is, of course, in plan, as there are obvious deviations in elevation.

Major Smith, who is an ex-Brigade and Divisional machine-gun officer, with a "D" at Bisley, having experience of revolvers, can be treated as an expert, and he states that the bullet must have met a severe obstacle, otherwise it would have penetrated the back of the wardrobe, or if this had been against a wall the bullet would have mushroomed up, and that a service bullet could not possibly have been stopped by a soft deal table and a wardrobe door. Dr. Gush, on the other hand, a surgeon of the highest standing, with experience of the actual effect of revolver bullets on the human body, when asked, "Do you think that after passing through the table and Mrs. Knowles, the bullet would have had sufficient energy to have travelled about 15 ft., penetrated a wardrobe, and bedded in the back?" answered "No." He also said, "I should have expected both the entrance and exit holes to have been very much larger if it had struck anything else; it is the size I should expect if it had not struck anything previously." And asked by me, "Do you consider it is impossible for a bullet which has passed through the table in Court to have made such small entrance and exit holes?" he said, "In my opinion it is improbable; from the nature of the wounds I am of opinion that the bullet passed through Mrs. Knowles' body without having struck any firm article previously."

The accused also pointed out that this was two or three hours after the luncheon party and probably both the bladder and lower bowel were filled, which would offer an extra resistance. His own story of the bullet was that, some months previously, he was in the dressing-room and his wife was in bed, they had had a "late sitting," and Mrs. Knowles, who was hysterical, seized the revolver and fired past him, hitting the wardrobe. He does not remember the hole being made in the table, but he says he was unobservant and that this was

generally covered with a cloth or towel. He says that the room was untidy, and Mrs. Knowles was careless with regard to housekeeping matters, and the dresses were generally put in by her.

The boys swear that they did not see the hole before the affair, but both of them have been a very short time in the accused's service, and he maintains that this was merely lack of observation. With the exception of Bongo Fra Fra they say that they never noticed the hole until it was pointed out to them by the police on the following Wednesday. Bongo Fra Fra struck me as being the very common type of uneducated North Country boy, who is quite incapable of dissociating in his mind things he has actually seen and things he has been told, and I believe the prosecution also were not greatly impressed by his evidence.

The state of the mosquito net, which is not such as one would expect to find in the house of a professional man, especially if married, bears out the theory of untidiness, and Mr. Bradfield actually states that he did see a hole in the wardrobe door some time ago, and though he did not pay much attention, he believes that the accused told him it had been made by a revolver shot. Mr. Bradfield was not further questioned on this point, and I must say that, if his recollection be correct, he seems to have shown a somewhat unusual lack of curiosity.

Major Smith repeated his experiments in Court with a piece of string. I was not greatly impressed with their exactitude as there seemed a large possible margin of error, but they do show the possibility of the holes in the mosquito net, table, and wardrobe being caused by the same bullet. But it must be noted that if his theory is correct, little or no deviation from its flight could have been caused by the passage through Mrs. Knowles's body. Upon these considerations, I am of opinion that

the theory that the bullet found in the wardrobe was the one that caused Mrs. Knowles' death, cannot be said to be proved from the real evidence owing to the conflict of the expert opinion and the evidence of Mr. Bradfield.

Now, as regards the bullet found by Kofi near the pool of blood, I myself can only think of possibilities—

(1) That it had been dropped on the floor at some date previously and swept up.
(2) That it was a deliberate "fake" planted by Dr. or Mrs. Knowles to put the police off the scent.
(3) That the story of the boys that they found it on the spot was deliberate perjury on their part.
(4) That it was fired on the Saturday and was thus possibly the bullet that killed Mrs. Knowles.

Now there is no evidence at all to support (1), which is improbable, although there is evidence from the accused that some time ago a boy ran amok and fired at the window, and in this untidy household anything of the sort might happen.

With regard to (2), it is extremely unlikely that either Dr. or Mrs. Knowles would have thought of anything of this sort, and, as regards the accused, it would be inconsistent with his general conduct and the damning statements he made after the event.

There is not the slightest evidence to support (3). If it were true, it would, of course, entirely vitiate the whole of their evidence. Now, the bullet, not much deformed, has a distinct furrow passing right across the top, carried down one side, which has partially bent in the hollow of the base. The prosecution do not believe this was the bullet that killed Mrs. Knowles, and no explanation of its presence has been given, but Major Smith was positive that the furrow could not have been produced by the bullet having passed through the table.

Now, Mrs. Knowles's story to Dr. Gush was that she was examining the revolver which had recently been cleaned by the police, put it on a chair, and shortly after sat upon it when the open-work of her lace dress caught in the trigger.

At the hospital she made the statement I have already read.

There are two undisputed inaccuracies in these statements—

(1) The revolver had not been recently cleaned by the police.

(2) It is quite incorrect to say that the boy brought in the afternoon tea and that she sat on the gun while taking a cup.

The accused's own story is as follows:—

"We had a lunch on Saturday. I had a certain amount of drink taken, but I was sober. My wife and I had one or two drinks after the party had gone and a quarrel arose about nothing. I forget what, I paid no attention to it. I had been sleeping badly for some nights and felt frightfully tired. I went to bed with a towel round me and very soon was half asleep. I saw Mrs. Knowles come in and start to undress, I heard a shot fired, it woke me immediately, and I heard my wife say: 'Oh, my God, I am shot.' I jumped up immediately and said: 'Show me; show me.' She was sitting[1] on one of the chairs which was near the door to the lounge.'"

He goes on to describe how she turned towards him, lifted the single garment she was wearing, and showed him the wound from which the blood was pouring from the buttock in a strong, continuous stream; he plugged this, and put the deceased to bed, when she said,

[1] Dr. Knowles said, "had been sitting." See page 91.

"People will think I have done this purposely"; to which he says he replied, "All you have to do is to lie quiet; I will take all the blame." He says he did not trouble about Mr. Mangin's note or ask for help as he was a medical man, had done what was necessary, and did not want the patient disturbed.

He says that it is correct what Sampson and Bongo say: that he kept the loaded revolver in a holster under his pillow, but used to take it out at night, cock it (when the pull is certainly light, but not at all a hair trigger as he described), and place it either on the chair or on the bookcase, and uncock it and place it in the holster in the morning. That, usually, he only lay down, read, and dozed in the afternoon, leaving the revolver under the pillow, but on this particular afternoon he took it out of the holster, cocked it, and laid it on the bookcase. He goes on to say that after the affair he drank and drugged to such an extent that this, combined with the shock, rendered him *non compos mentis* and says, "I had the fixed idea of protecting my wife and did not realise that the statements (*i.e.*, his own) were dangerous; I had an *idée fixe* that I would take any punishment if I could save my wife."

He suggested that the bullet found by Kofi was the one that caused the death, and that the resistance of the body was such as to absorb the energy to such an extent that it might have just nicked against the iron bedstead and dropped.

His explanation of the hole in the wardrobe has already been discussed. As regards the hole in the table, he says, "I think it was done this tour, but I don't remember; that bullet might have been fired last tour to the best of my knowledge; I don't remember it before this; I agree it is a bullet hole." The hole in the mosquito net he accounted for by saying it was made by

his wife when she fired past him. There are numerous difficulties in accepting these accounts—

(1) Why should Mrs. Knowles have told this story of the boy bringing in tea, which is admittedly untrue?

(2) Why on that particular afternoon did the prisoner take the revolver out of the holster and cock it? His explanation, " I knew I was going to bed for some time; I didn't want to get up till dinner-time and may have done it automatically," cannot be considered as satisfactory.

(3) It is suggested that Mrs. Knowles had been drinking, but it is difficult to believe that a woman who, as has been pointed out by her husband, was accustomed to firearms, should put a fully cocked revolver on a chair and sit on it, unless she were absolutely intoxicated.

(4) Mrs. Knowles states that the revolver was on the table in the first place. Accused's recollection is that it was on the bookcase.

(5) The lace dress has not been found. Dr. Gush says he saw what looked like a lace dress which had no blood stains, and the only lace article in Court was a lace underneath bodice affair which also had no blood stains, but certainly has one of the tape shoulder straps broken. It is not a garment that could easily be confused with a dress. Dr. Gush says the bleeding would have been immediate and one would expect to find both the chair and garments thereon stained with blood. The explanation by the accused that " she must have left the chair before the shot or just at the time," does not quite explain this, as Dr. Gush says the bleeding would have commenced immediately. The accused says that, according to his recollection, Mrs. Knowles was wearing a single pink sort of slip garment which she sometimes used as a nightdress. This was produced in Court saturated with blood, but there appear to be no bullet holes through it. A small tear was shown, and it was suggested that

this might be a bullet hole. From the position and appearance this is extremely doubtful; if this be not so, it is difficult to see what, if any, garment Mrs. Knowles was wearing at the time of her wound. Obviously, if she were wearing nothing at all, fresh doubt would be cast on both her statements and those of the accused.

(6) Even making all allowances for the state she was in, why should Mrs. Knowles say, "People will say I have done this on purpose"? The nature of the wound was such that only a mad person could possibly deliberately self-inflict.

(7) Why should the accused express his willingness to take the blame—the blame as he says, "The blame of firing the shot"? It must be remembered that at this time the accused, according to his own evidence, had "drink taken," but was sober.

(8) The various admissions made by the accused after the event when, as he says, he was *non compos mentis*, under the influence of drink, drugs, and shock. According to his own evidence and that of Mr. Hansen, the amount of drug taken was not very much, though he seems to have had a considerable amount of alcohol, and it is fairly certain that he would not have said all he did say had he been in full possession of his faculties. When Dr. Gush arrived on the Sunday, he was undoubtedly in a dazed and confused condition, but he was able to say that there had been a domestic fracas and to show his bruised leg, explaining that Mrs. Knowles had struck him with an Indian club on the Saturday. This he admits was true in fact and must have taken place very shortly before the shooting, and his remark, to the effect that he had told his wife he would put a bullet through her if she did not leave the room, is significant.

When Mrs. Knowles told her story, he said, "Speak the truth," and Dr. Gush says at this time, "he was mentally sluggish, but I would not go so far as to say

he could not understand." On 22nd October, that is the Monday, the two police officers, Major Smith and Mr. Morris, found him apparently normal, and by that, I take it, he could answer in a reasonably intelligent way. That he was not " normal " in the full sense of the word is, I think, shown by the fact that on the second day after the tragedy he was still in blood-stained pyjamas, on sheets stained with large patches of his wife's dried and coagulated blood.

As to the various remarks made to the police officers and Mr. Hansen, the accused states that the idea of murder never entered into his head and he was acting under an *idée fixe* which it would take an expert psychologist to explain—to that one can only say that from that it is clear from the remarks already quoted, " If she rolls up, I shall be hanged by the neck until I am dead," &c., that the idea of murder was in his mind; and also that the somewhat subtle defence of an obscure mental process by which all these statements are merely manifestations of an *idée fixe* to protect his wife and have no relation to truth is not one that can commend itself to a Court of law, without very strong technical evidence to support it; and it must be noted that he never said it was an accident, but went out of his way to show considerable provocation.

(9) The accused's explanation of the bullet hole in the table has already been discussed and is certainly not very satisfactory.

(10) The hole in the mosquito net—the accused says that this was caused by his wife firing past him as described some months previously. Now the blackening and scorching were very marked when first this was produced in Court. With the constant handling it received at the hands of witnesses the blackening was diminished and the hole enlarged, more especially in the outer patch. All three boys swear they never saw it

until after this affair. I agree that the net has many holes in it, but they appear to be below the mattress.

The net has been patched in a rather slovenly way at this place, so that there was a double blackened hole.

It is difficult to believe—

(1) That no boy noticed this until after the affair.
(2) That in this country it has been allowed to continue for months, and more especially in a medical household, however slack, and under the circumstances in which the accused says it was made.
(3) That the blackening in the course of these months had not been worn.

Now, I have no reason to doubt that both Dr. and Mrs. Knowles were extremely fond of each other, but the *ménage* was, I hope, a somewhat unusual one amongst persons of the professional class. It would appear that Mrs. Knowles was a somewhat hysterical person and, her husband hints, addicted to drink. If his evidence is correct, she had twice fired off a revolver past him to frighten him, and had bitten his ear; he had on at least two occasions shown bruises inflicted by her, and as he put it, " She used to think an Indian club was sufficient to stop an argument once or twice."

Taken as above, the evidence against the accused appears overwhelming.

There is one point that should be mentioned in favour of the accused, and that is, that his theory that the bullet that passed through Mrs. Knowles' body, lost its *vis a tergo*, and might have nicked against the bedstead, would possibly be compatible with the furrow on the bullet found by Kofi, but there is no evidence that this was in fact the bullet that killed Mrs. Knowles.

I confess that the real evidence is very confusing, but I think that the evidence, including that afforded by the

accused himself, is overwhelming, and I think there can be no reasonable doubt of the guilt of the accused. From the nature of the defence I am unable to say fully what was his mental state at the time or what *immediate* provocation he had received. I find the prisoner guilty of the murder of his wife Harriet Knowles.

Allocutus.

The prisoner makes an excited and rambling statement wherein, although denying his guilt, he says it is no good to say that, as every one would do so if found guilty. As a British citizen, he protests against being tried without a jury and states that without the help of counsel he was unable to formulate his questions properly.

Sentence.

Benjamin Knowles—The sentence of the Court is that you be taken to a place to be hereafter appointed by the Governor and that there you be hanged by the neck until you are dead. And may the Lord have mercy upon your soul.

APPEAL TO THE KING IN COUNCIL.

PROCEEDINGS ON APPLICATION FOR SPECIAL LEAVE TO APPEAL.[1]

JUDICIAL COMMITTEE OF THE PRIVY COUNCIL.

KNOWLES *v.* R.

Before the LORD CHANCELLOR (LORD HAILSHAM), LORD DUNEDIN, and LORD ATKIN.

Their lordships granted leave to Dr. Benjamin Knowles to appeal against the judgment by which, on 21st November, 1928, he was found guilty at Kumasi, Gold Coast, West Africa, of the murder of his wife, Mrs. Harriet Knowles, and was sentenced to death. That sentence has since been commuted by the Governor of the Gold Coast.

For some time before 20th October, 1928, Dr. Knowles lived at Bekwai, Gold Coast, where he practised as a medical practitioner, being employed by the Administration of the Colony of Ashanti as medical officer in charge of the Bekwai district. On 21st October he was arrested on a charge of shooting with a revolver his wife, who was stated formerly to have been known as Madge Clifton and to have been a music-hall artiste.

On 20th October Dr. and Mrs. Knowles had a luncheon party at their bungalow at which various Government officials were present. About two hours after the guests had left Mrs. Knowles, who was then in the bedroom with Dr. Knowles, received a wound from a revolver bullet, with the result that on 23rd October she died in Kumasi Hospital. In a dying deposition she declared that the revolver had been fired by her accidentally while she was getting up from a chair on which

[1] Reprinted from *The Times* of 22nd March, 1929.

she had placed it. Dr. Knowles treated her, and it was stated at the trial that his treatment was proper and good practice.

It was also stated at the trial that after the accident Mrs. Knowles said, " People will think that I have done this purposely," and that Dr. Knowles replied, "All you have to do is to lie quiet. I will take all the blame."

The case for the prosecution was that Mrs. Knowles's dying deposition was false, and was a " sporting effort " to shield Dr. Knowles.

Dr. Knowles's defence was that, as he had been sleeping badly and was very tired, he went to bed some time after luncheon and was half asleep when Mrs. Knowles came into the bedroom and began to undress, placing her garments on a chair, and that, while he was dozing, he heard a shot and Mrs. Knowles cried, " Oh, my God, I'm shot!"

In giving judgment, the Acting Circuit Judge, who tried the case without a jury, said that the question which he had to decide was whether what had occurred was an accident or whether Mrs. Knowles's statement was the untruthful effort of a generous woman to save her husband from the consequences of his crime. The evidence was very confusing, but, in his opinion, it was overwhelming, and there could be no doubt about Dr. Knowles's guilt.

Grounds of Appeal.

Dr. Knowles accordingly asked for special leave to appeal on the grounds (1) that there was no jurisdiction in the Court of trial to try him without a jury; (2) that there was no reliable evidence on which a capital conviction could safely and justly be based; (3) that the Judge did not give effect to the paramount rule of law in a capital case, that the onus of proof was on the prosecution; and (4) that the case should have been referred to the Supreme Court of the Gold Coast and tried with a jury.

Mr. Pritt, K.C., and Mr. Horace Douglas appeared for Dr. Knowles, Mr. Kenelm Preedy for the Crown.

Mr. Pritt outlined the grounds of appeal and submitted that substantial injustice would be done if Dr. Knowles's con-

viction were allowed to stand. Dr. Knowles was tried in the Chief Commissioner's Court, which was established by the Ashanti Administration Ordinance (No. 1 of 1902). By secs. 8 and 9 of that Ordinance it was provided that in criminal matters the Court should be guided by the Criminal Code of the Gold Coast, and that, so far as it was practicable and local circumstances permitted, the procedure of the Court, both civil and criminal, should be the same as that of the Supreme Court of the Gold Coast. Sec. 10 of the Ordinance provided that in no cause or matter, civil or criminal, should the employment of a solicitor or barrister be allowed and, by sec. 19, no appeal lay from the decision of the Chief Commissioner or other person presiding in the Chief Commissioner's Court in any criminal matter. By sec. 17 it was lawful for the Chief Commissioner, with the approval of the Governor, to refer any matter, civil or criminal, to the Supreme Court of the Gold Coast.

"It will, therefore, be seen," said counsel, "that the law of Ashanti provides that you shall be tried for any criminal offence, whether it be a breach of the motoring laws or the murder of your wife, without being represented by a barrister or solicitor, and without any right of appeal!"

It would necessarily follow that the Court which dealt with criminal cases must deal with them with great care, and in that connection it must be remembered that sec. 8 of the Ordinance provided that in criminal matters the Court should be guided by the Criminal Code of the Gold Coast and that sec. 9 rendered it necessary that, so far as it was practicable and local circumstances permitted, the procedure of the Supreme Court of the Gold Coast should be followed.

Gold Coast Procedure and Jurors.

Sec. 117 of the Criminal Procedure Ordinance of the Gold Coast provided that, in cases tried with a jury, the trial should be with a jury of seven men who might be common or special jurors. Sec. 118 of the Ordinance provided that all cases of offences punishable by death—which included cases of murder—should be heard before a jury of seven special jurors, unless

that number of special jurors were not comprised in the jurors' list for the place where the trial was had or was not obtained when summoned, in which event the trial might be had with a less number of special jurors, the remainder of the jury being made up of common jurors.

Dr. Knowles was tried by the Acting Circuit Judge without a jury. The prosecution was conducted by the Commissioner of Police, but Dr. Knowles was not represented by either counsel or solicitor.

LORD DUNEDIN—Was any statement made by the Judge regarding the reason why there was no jury?

Mr. PRITT—The only thing that was said about it was by my poor, bewildered client, who, when asked if he had anything to say, protested against being tried under a tropical sun in poor health without a jury.

LORD DUNEDIN—If nothing were said about the impossibility of getting a jury, we should certainly assume that seven men were available.

Mr. PRITT said that seven men would seem easily to be procurable. He had no recent information on the matter, but there was no colour bar, and twenty years ago Kumasi had a population of 12,000.

LORD DUNEDIN—What is the answer to your proposition that there should have been a jury?

Mr. PRITT—The only answer I can think of is that which is suggested to me by my experience of other litigation, and that is that a tropical climate makes people negligent.

Mr. PREEDY said that he was instructed to give their lordships such assistance as he could. The question which Lord Dunedin had put, however, was one which he could not answer. All he could do was to draw the attention of their lordships to sec. 9 of the Ashanti Ordinance, but he had no information whether it was " practicable " for there to have been a jury or whether the " local circumstances permitted " it.

LORD DUNEDIN—If the local circumstances rendered it impossible for there to be a jury, would not a statement by the Judge to that effect be necessary before the beginning of the trial?

The LORD CHANCELLOR—At present we have the position that the Ordinance provides for a trial by jury and the trial takes place without a jury and without the prisoner being told that that course is adopted on the basis of its having been impracticable and impossible to have a jury by reason of the local circumstances.

LORD ATKIN pointed out that under Ashanti law there was no direct provision for trial by jury at all.

LORD DUNEDIN (to Mr. Preedy)—What strikes me so forcibly is the paucity of your instructions. That, of course, is not your fault.

Their lordships gave Dr. Knowles leave to appeal.

ORDER IN COUNCIL FOR LEAVE TO APPEAL.

AT THE COURT OF SAINT JAMES.

The 7th day of May, 1929.

Present: HIS ROYAL HIGHNESS THE PRINCE OF WALES, LORD CHANCELLOR, PRIME MINISTER, ARCHBISHOP OF YORK, SECRETARY SIR W. JOYNSON-HICKS, EARL STANHOPE, SIR BINOD MITTER, VISCOUNT PEEL, and Mr. ALEXANDER MACROBERT.

WHEREAS HIS MAJESTY was pleased by His Commission dated the 4th day of December, 1928, to nominate and appoint Her Majesty The Queen, His Royal Highness The Prince of Wales, K.G., K.T., K.P., G.C.S.I., G.C.M.G., G.C.I.E., G.C.V.O., G.B.E., His Royal Highness The Duke of York, K.G., K.T., G.C.M.G., G.C.V.O., the Most Reverend Father in God Cosmo Gordon, Archbishop of Canterbury, the Right Honourable Douglas M'Garel, Baron Hailsham, Lord High Chancellor of Great Britain, and the Right Honourable Stanley Baldwin, Prime Minister and First Lord of the Treasury, or any three of them, during His Majesty's illness, to summon and hold on His Majesty's behalf His Privy Council, and to signify thereat His Majesty's approval of any matter or thing to which His Majesty's approval in Council is required:

AND WHEREAS there was this day read at the Board a Report from the Judicial Committee of the Privy Council dated the 21st day of March, 1929, in the words following, viz.:—

"WHEREAS by virtue of His late Majesty King Edward the Seventh's Order in Council of the 18th day of October, 1909, there was referred unto this Committee a humble Petition of Benjamin Knowles in the matter of an Appeal from the Chief Commissioner's Court of Ashanti Eastern Province between the Petitioner Appellant and Your Majesty Respondent setting forth (amongst other matters)

that the Petitioner is desirous of obtaining special leave to appeal from the Judgment of His Honour Frank James Foster M'Dowell given on the 23rd November, 1928, whereby the Petitioner was found guilty by the Judge of the murder of his wife Harriet Knowles and was sentenced to death: that the sentence of death has been commuted by His Excellency the Governor; that the trial took place at Kumasi in November, 1928: that the Petitioner submits that there was no jurisdiction to try the case without a jury and that there was no reliable evidence upon which a capital conviction could safely and justly be based: that the Petitioner was tried in the Chief Commissioner's Court which was established by the Ashanti Administration Ordinance No. 1 of 1902 (Laws of Ashanti 1920): that the Judge who tried the case was the Acting Circuit Judge: that he tried the case alone without a jury: that the prosecution was conducted by Mr. Piegrome, Commissioner of Police, and that the Petitioner was not represented either by Counsel or Solicitor: that the facts and evidence and portions of the Judge's Judgment are set forth in the Petition: that the Petitioner submits (1) that there was no jurisdiction in the Trial Court to try the Petitioner without a jury; (2) that there was no reliable evidence upon which a capital conviction could safely and justly be based; (3) that the Judge did not give effect to the paramount rule of law in a capital case that the onus of proof is on the prosecution and that it was not for the Petitioner to prove his innocence; (4) that there was power and jurisdiction under the Ashanti Administration Ordinance to refer the case to the Supreme Court of the Gold Coast Colony when the Petitioner would have been entitled to a jury and to be represented by Counsel and Solicitor and that the case should have been referred: And humbly praying Your Majesty in Council to grant the Petitioner special leave to appeal from the conviction and sentence found and given by the Judgment of the Chief Commissioner's Court of Ashanti Eastern Province of the 23rd November, 1928:

"THE LORDS OF THE COMMITTEE in obedience to His late Majesty's said Order in Council have taken the humble Petition into consideration and having heard Counsel in support thereof and in opposition thereto Their Lordships do this day agree humbly to report to Your Majesty as their opinion that leave ought to be granted to the Petitioner to enter and prosecute his Appeal against his conviction and sentence by the Chief Commissioner's Court of Ashanti Eastern Province dated the 23rd day of November, 1928."

NOW, THEREFORE, His Royal Highness The Prince of Wales, the Lord High Chancellor of Great Britain, and the Prime Minister and First Lord of the Treasury, being authorized thereto by His Majesty's said Commission, have taken the said Report into consideration, and do hereby, by and with the advice of His Majesty's Privy Council, on His Majesty's behalf approve the same and order as it is hereby ordered that the same be punctually observed, obeyed, and carried into execution.

Whereof the Governor or Officer administering the Government of the Gold Coast for the time being and all other persons whom it may concern are to take notice and govern themselves accordingly.

Appellant's Case.

In the Privy Council.

ON APPEAL.

From the Chief Commissioner's Court of Ashanti (Eastern Province).

BETWEEN

BENJAMIN KNOWLES (Defendant), *Appellant;*

AND

THE KING (Prosecutor), *Respondent.*

CASE OF THE APPELLANT.

1. This is an appeal by special leave from the judgment of His Honour Frank James Foster M'Dowell, Esq., Acting Circuit Judge, given on the 23rd November, 1928, whereby the appellant was found guilty by the learned Judge of the murder of his wife, Harriet Knowles, and was sentenced to death. The sentence was commuted by His Excellency the Governor to imprisonment for life.

2. The trial took place at Kumasi, Ashanti, on the 13th, 14th, 15th, 16th, 17th, 19th, 20th, and 21st November, 1928, when the Court adjourned for judgment which was given on the 23rd November, 1928.

3. The appellant was tried in the Chief Commissioner's Court without a jury, and in accordance with the law of Ashanti was not represented by solicitor or counsel.

4. The main questions arising on this appeal are (1) whether there was any jurisdiction in the trial Court to try the case without a jury, and (2) whether there was any reliable evidence upon which a conviction could safely and justly be based.

5. The Chief Commissioner's Court was established by the Ashanti Administration Ordinance (No. 1 of 1902; Laws of Ashanti, 1920).

6. By sec. 8 (as amended by Ordinance No. 7 of 1925) and secs. 9, 10, 17, and 19 of the said Ordinance it is respectively provided—

Sec. 8—" Where not otherwise provided by some other statute, ordinance, or other law for the time being in force in Ashanti, the Court shall in causes and matters brought or arising before it, be guided by the law in force in the Gold Coast Colony as set forth in Sections 14-19 of the Supreme Court Ordinance of the said Colony."

Sec. 9—" So far as it is practicable and local circumstances permit, the procedure in the Court, civil and criminal, shall be the same as the procedure in the Supreme Court of the Gold Coast Colony."

Sec. 10—" In no cause or matter, civil or criminal, shall the employment of a Barrister or Solicitor be allowed."

Sec. 17—" It shall be lawful for the Chief Commissioner with the approval of the Governor in writing to refer to the Supreme Court of the Gold Coast Colony any matter or cause, civil or criminal."

Sec. 19—" No appeal shall lie from the decision of the Chief Commissioner or other person presiding in the Chief Commissioner's Court in any criminal matter."

7. Of the sections of the Supreme Court Ordinance of the Gold Coast Colony (Laws of Gold Coast Colony, 1920, cap. 7) referred to in sec. 8 of the Ashanti Administration Ordinance, quoted above, secs. 14 and 15 are material, namely—

Sec. 14—" The Common Law, the doctrines of equity, and the statutes of general application which were in force in England at the date when the Colony obtained a local legislature, that is to say, on the 24th July, 1874, shall be in force within the jurisdiction of the Court."

Sec. 15—" The jurisdiction by this Ordinance vested in the Supreme Court shall be exercised (so far as regards

procedure and practice) in the manner provided by this and the Criminal Procedure Ordinance, or by such rules and orders of Court as may be made pursuant to this Ordinance.

8. The procedure in the Supreme Court of the Gold Coast Colony, which is thus made applicable in Ashanti " so far as it is practicable and local circumstances permit," is to be found in the Criminal Procedure Ordinance of the Gold Coast Colony (Laws of Gold Coast Colony, 1920, cap. 13), the most material sections whereof are secs. 117 and 118, namely—

Sec. 117—" In cases tried with a jury the trial shall be with a jury of seven men who may be common or special jurors."

Sec. 118—" Trials in all cases punishable by death shall be heard before a jury of seven special jurors, unless the said number of special jurors are not comprised in the jurors' list for the place where the trial is had, or not obtained when summoned, when the trial may be had with any less number of special jurors, the remainder of the jury being made up of common jurors."

9. The prosecution was conducted by Mr. Piegrome, Commissioner of Police.

10. The appellant was at all material times a medical officer in the employment of the Administration of the Colony of Ashanti and for some years had been so employed, and on the 20th October, 1928, was the medical officer in charge of the district of Bekwai and was there resident in a Government bungalow with Mrs. Knowles. There was no other medical man nearer than Kumasi, a distance of 20 miles.

11. On the said 20th October, 1928 (Saturday), the appellant and Mrs. Knowles had a luncheon party at the bungalow at which were present Mr. Mangin, District Commissioner; Mr. Bradfield, Inspector of Government Works; and Mr. Grove. These gentlemen gave evidence for the prosecution,

and stated that the party was a cheery one, and that Mr. and Mrs. Knowles were normal and sober; and Mr. Mangin stated that he had known the appellant and Mrs. Knowles for four months and had seen a great deal of them; that they were very fond of each other; and that Mrs. Knowles was a very excitable woman. The guests left at about 2.30 p.m.

12. At about 4.30 p.m. on the said 20th October, 1928, Mrs. Knowles, while she and appellant were in the bedroom of the bungalow, received a wound from a revolver. According to her statement she accidentally shot herself. The entrance and exit wounds were immediately treated by the appellant who stopped the wounds with forceps and cotton wool and iodine and afterwards administered opiates, such treatment being according to the evidence for the prosecution the proper treatment in the circumstances.

13. Two native servants of the appellant, who were called by the prosecution, gave evidence that they were preparing tea in an adjoining room at the time, and heard the shot, the sound of which was not preceded by any sounds of quarrelling or disturbance.

14. On the 21st October, 1928, Mrs. Knowles was taken by Mr. Gush, surgeon specialist of Kumasi, to the Kumasi Hospital. She there died on the 23rd October, 1928, of septic peritonitis due to the wound.

15. While Mrs. Knowles was in the Kumasi Hospital, Mr. Gush made a request that a deposition should be taken from her, and accordingly on the 22nd October, 1928, Mr. Burner, District Commissioner, took a dying deposition from her under sec. 46 of the above-mentioned Criminal Procedure Ordinance of the Gold Coast Colony, see appendix. Omitting formal parts the deposition was as follows—

> " There was a revolver standing or lying on a bookcase, it had been cleaned, I took it up and put it on a table near the bed, the boy came with the afternoon tea, I put the revolver carelessly on a chair near the bed. I took a cup of tea, sitting on the chair. I sat

on the gun. As I got up it caught in my dress with a lace frill, I tried to take it away from the lace and suddenly it went off, the bullet passing through my leg. I did not realise I was shot until I saw blood running from my leg. I am not in fear of death.

(Signed) "HARRIET LOUISE KNOWLES."

16. A statement to the same effect but varying in details had been made by Mrs. Knowles to Mr. Gush on the 21st October, 1928, in response to a question put to her by Mr. Gush as to how the accident had happened. To that question she replied that she had been examining her husband's revolver which had been recently cleaned by the police, that she had put the revolver down on a chair, and shortly after sat upon it; that she tried to remove it from underneath her, but that the open-work sleeve of her dress caught in the trigger and the revolver went off.

17. The chairs in the bedroom were wicker or cane chairs, and one of them had the cane slightly broken.

18. Mr. Gush in his evidence stated that he examined the entrance and exit wounds, of which the former was in the fold of the left buttock to the right of the main bone, and about the size of a threepenny piece, and the latter was in the right side of the abdomen, and about the size of a sixpenny piece. He made an autopsy and found two perforations in the bowels, the bladder and lower section of the uterus being also perforated. He was of opinion that when Mrs. Knowles was shot she was stooping or semi-sitting.

19. The evidence of the prosecution established that, whilst only one shot was fired, and there was only one wound, that is to say, the entrance and exit wounds caused by one and the same bullet, there were two spent bullets found in the bungalow; that one was found on the 24th October, 1928, on a shelf in a wardrobe in a dressing-room adjoining the bedroom, that this bullet had entered the front of the wardrobe, split or cracked the wood, dented the inside back of the wardrobe at a higher level than the entrance hole, and was

resting under some clothes, which were not burnt, pierced or injured, on a shelf in the wardrobe; and that the other was found on the afternoon of 20th October, 1928, by one Kofi, one of the native boys employed by the appellant, near a pool of blood in the bedroom; this second bullet had a furrow in it.

20. The case for the prosecution was that Mrs. Knowles's statement to Mr. Gush made on the 21st October, 1928, and her dying deposition made on the 22nd October, 1928, were false, and that the dying deposition was a "sporting effort to save the appellant"; that the bullet that wounded Mrs. Knowles was the one found in the wardrobe; that at the time of the wounding Mrs. Knowles was outside the twin beds in the bedroom, which beds were surrounded by a mosquito net; that the appellant was in one of the beds; that he feloniously fired from one of the beds inside the mosquito net; that the bullet passed through the net, struck a deal table near the bed, and passed through the table, then entered Mrs. Knowles's body and continued its flight through open louvre doors dividing the bedroom from the dressing-room, and finally entered the wardrobe about 18 ft. away and there came to rest.

21. It was proved that there was a hole in the mosquito net about the size of a half-crown; that it had burnt edges and was about 6 in. above the top of the mattress; and that the net was doubled where the hole was, it having been previously repaired. The officer who brought the net from the bungalow to the Court said that the outside hole had been greatly enlarged and split between the time of its removal and the date of the trial, but that the inside hole was the same as when he first saw it. There were other holes in the net.

22. The theory of the prosecution as to the bullet in the wardrobe being the bullet which wounded Mrs. Knowles was rejected by the Judge, for the reason, *inter alia*, that there was evidence by the prisoner that Mrs. Knowles had fired the bullet into the wardrobe some months before the 20th

October, 1928, this evidence being confirmed by Mr. Bradfield, a witness for the prosecution, who stated that the prisoner had drawn his attention to the hole in the front of the wardrobe and told him of the circumstances some time before, and also for the reasons that Mr. Gush was of the opinion that that bullet would not have had sufficient energy after passing through Mrs. Knowles to have travelled 15 ft., penetrated the wardrobe and bedded in the back thereof; that he would have expected both the exit and entrance holes to have been very much larger if the bullet had previously struck anything else; that the wound was the size he would expect if it had not struck anything previously; and that he was of the opinion from the nature of the wound that the bullet passed through Mrs. Knowles's body without having struck any article previously.

23. The prosecution gave no evidence whatever as to the possibility or otherwise of a hole as large as a half-crown (diameter $1\frac{1}{4}$ in.) being made in a piece of netting by a bullet of a diameter of .455 of an inch. As to the second bullet, which was found near the blood in the bedroom, the learned Judge said that the prosecution offered no evidence and had no theory with regard to it. The appellant's case as to this second bullet was that it was the bullet that wounded Mrs. Knowles, and that the revolver was fired accidentally by her.

24. To prove the falsity of the statement made by Mrs. Knowles to Mr. Gush on the 21st October, 1928, that statement having contained the description of the revolver as "her husband's revolver which had recently been cleaned by the police," the Superintendent of the police, Mr. Afful, gave evidence that between May and June, 1928, he had cleaned the revolver in question for the appellant and had returned it to him, and that no one else had since cleaned it. This evidence the learned Judge accepted as proof of the falsity of Mrs. Knowles's statement.

25. To prove the falsity of the dying deposition of Mrs. Knowles, put in evidence by the prosecution, evidence was

given to prove that the following statements in it were untrue:—

(i) That she had taken or was taking a cup of tea.

(ii) That the gun caught in her dress with a lace frill.

On the second point the police gave evidence that a search had been made for a lace dress, but that none had been found.

26. As to the lace dress, the record shows that after the police officers had given their evidence, Mr. Gush was recalled at the request of the appellant, and said that on the 21st October, 1928, in his interview with Mrs. Knowles, she pointed out a lace frock which was hanging on the door between the bedroom and the dressing-room, that it was Chinese white; he was asked by the Court was it blood stained. Answer—" I did not see any blood stains." Re-examined—" Had the deceased been wearing the frock, would you have expected to find it blood stained? " to which no answer is recorded.

27. One of the native servants, Bongo Fra Fra, however, who on the instructions of Mrs. Knowles had helped to clean up the blood on the floor of the bedroom in the afternoon of the 20th October, stated that he took out of a bucket of blood, which was then brought from the bedroom, a handkerchief and a piece of cloth, " a biggish roll," that the cloth being blood stained, he did not open it but threw it away in the bush near the house. The prosecution seem to have taken no serious steps to trace or identify this cloth, which may well have been a blood-stained garment rolled up, and in the circumstances it is submitted that no reliance as against the appellant can be placed on the apparent absence of any blood-stained lace frock. The Acting Commissioner of Police, Major Smith, questioned the appellant on the 22nd October, 1928, as to the whereabouts of the lace frock which his wife had been wearing, and the appellant replied that " he expected it had been washed, thrown away, or burnt."

28. The appellant's evidence of what took place in the

bedroom on the 20th October, 1928, was in substance as follows: That having been sleeping badly for several nights and feeling very tired, he went to bed some time after lunch, and very soon was half asleep, but that he heard mumbling and that he saw Mrs. Knowles come into the bedroom; that she started to undress and placed her garments on a chair; and that while he was dozing he heard a shot and then heard Mrs. Knowles cry out, "Oh, my God, I am shot," that he immediately jumped up and said "Show me; show me," words which were overheard by the native boys who were in the next room preparing tea; that Mrs. Knowles was then wearing a pink dressing-gown (produced in evidence); and that having examined her he found that she was wounded in the left gluteal fold and that blood was pouring out from the buttock at an agle of 45 degrees in a continuous stream of nearly the diameter of a pencil; that with cotton wool and dissecting forceps he plugged the entrance and exit wounds and put her to bed; and that, while she was in bed and in great pain, she said, "People will say I have done this purposely," and that he said, "All you have to do is to lie quiet. I will take all the blame"; that the hole in the wardrobe had been made some months before when Mrs. Knowles in a moment of excitement or hysteria fired the revolver from the bed; that her statement made to Mr. Gush on the 21st October, 1928, and her dying declaration as to the accident were true; and that he may have automatically cocked the revolver before getting into bed.

29. The learned Judge in his judgment said, *inter alia*—

> "The accuracy of Mrs. Knowles's statemnet is challenged by the prosecution, and the case for the Court to decide is as to whether this was in fact an accident or whether Mrs. Knowles's statement was the untruthful effort of a generous woman to save her husband from the consequences of a crime,"

and, it is submitted, fell into the error of assuming that, if the statement were untrue, this would go a long way towards establishing the appellant's guilt.

30. The learned Judge continued—

> " Through the whole case the prosecution has endeavoured to prove that this was the fatal bullet " (that is, the bullet found in the wardrobe), " that it was fired through the mosquito net, that it first passed through the table, then through Mrs. Knowles's body, and finally, after passing through the wardrobe door, it dented the back of the wardrobe and fell on the shelf. Although only one shot was fired, they offered no evidence and had no theory with regard to the bullet picked up by Kofi " (the second bullet).

31. The learned Judge further stated in reviewing the evidence, that the evidence of the prosecution was conflicting, and pointed out that Mr. Gush, a surgeon of the highest standing, with experience of the actual effect of revolver bullets on the human body, when asked—

> " Do you think that after passing through the table and Mrs. Knowles, the bullet would have had sufficient energy to have travelled about 15 ft., penetrated a wardrobe and bedded in the back,"

answered in the negative, and also said—

> " I should have expected both the entrance and exit holes to have been very much larger, if it had struck anything else; it is the size I should expect if it had not struck anything previously ";

and when asked by the Judge,

> " Do you consider it is impossible for a bullet which had passed through the table in Court to have made such a small entrance and exit hole,"

replied,

> " In my opinion it is improbable, from the nature of the wounds I am of this opinion, that the bullet passed through Mrs. Knowles's body without having struck any article previously."

32. With reference to the appellant's evidence as to the bullet in the wardrobe, the learned Judge said—

> " The prisoner's own story of the bullet was that some

months previously . . . Mrs. Knowles, who was hysterical, seized the revolver and fired past him hitting the wardrobe; that he does not remember the hole being made in the table, but says that he was unobservant, and that the table was generally covered by a cloth or towel; that the room was untidy, and that Mrs. Knowles was careless with regard to housekeeping matters. . . . The boys swear that they did not see this hole before the affair, but both of them had been a very short time in the prisoner's service, and he maintains that this was merely lack of observation. With the exception of Bondo Fra Fra they say they never noticed the hole until it was pointed out to them by the police on the following Wednesday. Bondo Fra Fra struck me as being the very common type of uneducated North Country boy, who is quite incapable of dissociating in his mind things he has actually seen and things he has been told, and I believe the prosecution also were not greatly impressed by his evidence. The state of the mosquito net, which is not such as one would expect to find in the house of a professional man, especially if married, bears out the theory of untidiness; Mr. Bradfield actually states that he did see a hole in a wardrobe door some time ago, and though he did not pay much attention, he believes that the prisoner told him it had been made by a revolver shot. Mr. Bradfield was not further questioned on this point, and I must say that if his recollection was correct, he seems to have shown a somewhat unusual lack of curiosity."

33. The learned Judge then said that he was not greatly impressed with the exactitude of the experiments made in Court by Major Smith, a witness for the prosecution, to show the possible flight of the bullet; that there seemed to be a large possible margin of error, but that they did show the possibility of the holes in the mosquito net, table, and wardrobe being caused by the same bullet, but that it must be noted that, if Major Smith's theory was correct, little or no deviation from its flight could have been caused by the passage through Mrs. Knowles's body.

34. The learned Judge then said that under the circumstances he was of the opinion that the theory that the bullet found in the wardrobe was the one that caused Mrs. Knowles's death could not be said to be proved from the real evidence owing to the conflict of expert opinion and the evidence of Mr. Bradfield.

35. As regards the bullet found near the pool of blood in the bedroom, the learned Judge said that he himself could only think of four possibilities, namely—

(1) That it had been dropped on the floor at some date previously and swept up.

(2) That it was a deliberate " fake " planted by Dr. and/or Mrs. Knowles to put the police off the scent.

(3) That the story of the boys that they found it on the spot was deliberate perjury on their part.

(4) That it was fired on the Saturday and was thus possibly the bullet that killed Mrs. Knowles.

36. The learned Judge rejected the first three possibilities, adding as to the second bullet (the one found by Kofi)—

" The prosecution do not believe this was the bullet that killed Mrs. Knowles, and no explanation of its presence has been given."

37. The learned Judge further said—

" There is one point that should be mentioned in his " (the appellant's) " favour and that is that his theory that the bullet passed through Mrs. Knowles's body, lost its *vis a tergo* and might have knocked against the bedstead, would possibly be compatible with the furrow on the bullet found by Kofi, but there is no evidence that this was in fact the bullet that killed Mrs. Knowles."

38. In dealing with the appellant's account of the matter and in particular with his contention that the bullet that killed Mrs. Knowles was the one found near the pool of blood and that Mrs. Knowles's statements were correct, the learned

Judge said that there were numerous difficulties in accepting these accounts.

39.

"First," he said, "why should Mrs. Knowles have told this story of the boy bringing in the tea, which is admittedly untrue? Second, why on that particular afternoon did the prisoner take the revolver out of the holster and cock it? His explanation, 'I knew I was going to bed for some time. I did not want to get up till dinner-time and may have done it automatically,' cannot be considered as satisfactory."

40. It should be noted that the learned Judge had previously stated that the appellant

"says it is correct what Samson and Bongo say, that he kept the loaded revolver in a holster under his pillow but used to take it out at night and cock it . . . and place it either on the chair or on the bookcase, and uncock it and place it in the holster in the morning."

41. The learned Judge continued—

"Third, it is suggested that Mrs. Knowles had been drinking, but it is difficult to believe that a woman who, as has been pointed out by her husband, was accustomed to firearms, should put a fully cocked revolver on a chair and sit on it, unless she was absolutely intoxicated. Fourth, Mrs Knowles stated that the revolver was on the table in the first place: accused's recollection is that it was on the bookcase.

On this point it is submitted that the learned Judge was in error on the facts, for Mrs. Knowles's deposition shows that she said it was on the bookcase.

42. The learned Judge continued—

"Fifth, the lace dress has not been found. Dr. Gush says he saw what looked like a lace dress which had no blood stains and the only lace article in Court was a lace underneath bodice affair which also had no

blood stains, but certainly has one of the tape shoulder straps broken. It is not a garment that could easily be confused with a dress. Dr. Gush says the bleeding would have been immediate and one would expect to find both the chair and the garments thereon stained with blood. The prisoner's explanation that ' she must have left the chair before the shot or just at the time ' does not quite explain, as Dr. Gush says the bleeding would have commenced immediately. The prisoner says that, according to his recollection, Mrs. Knowles was wearing a single pink sort of slip garment which she sometimes used as a nightdress. This was produced in Court, saturated with blood, but there appear to be no bullet holes through it. A small tear was shown and it was suggested this might be a bullet hole " (this suggestion was made by a police officer, Major Smith, who said that he examined it and found in it a hole that might have been caused by a .455 bullet, but it might have been an ordinary tear). " From the position and appearance this is extremely doubtful. If this be not so, it is difficult to see what, if any, garment Mrs. Knowles was wearing at the time of her wound. Obviously if she was wearing nothing at all, fresh doubts would be cast on both her statements and those of the accused."

43.

" Sixthly," said the learned Judge, " even making all allowances for the state she was in, why should Mrs. Knowles say, ' People will think I have done this on purpose ' ? The nature of the wound is such that only a mad person could deliberately self inflict. Seventhly, why should the accused express his willingness to take the blame, as he says, ' The blame of firing the shot.' It must be remembered that at that time the prisoner, according to his own evidence, had ' drink taken,' but was sober."

It should be noticed that there was no evidence that at that time the appellant was in drink. The occasion when the appellant had taken drink and drugs was on the

21st October, 1928, the day after the wounding, when Mr. Gush visited the bungalow, and his (the appellant's) evidence was that on that occasion he had a confused idea of taking the blame and protecting his wife from cross-examination; he was then of opinion that Mrs. Knowles would recover. He said on that occasion to Mr. Gush, according to Mr. Gush's evidence, " There has been a domestic fracas." Mr. Gush then asked him what had happened, and Mr. Gush said in evidence—

> " He showed me his left leg which was covered with bruises, and stated that his wife had flogged him with Indian clubs. He further stated that she had been nagging him the previous afternoon, and he told her if she did not leave the room he would put a bullet in her."

But, immediately afterwards, Mr. Gush saw Mrs. Knowles, who then gave her account of the accident as previously stated herein, on which the appellant remarked, " Speak the truth," when Mrs. Knowles said, " Shut up, Benjy. You don't know what you are talking about." As above mentioned the native boys who were in the bungalow in the afternoon of the 20th October said nothing in their evidence of a fracas or any commotion or noise apart from the noise of the shot and the cry of Mrs. Knowles. Mr. Gush said in his evidence that in his opinion, at the interview of the 21st October, and also when the dying deposition of Mrs. Knowles was taken the appellant's condition was due to three conditions: (1) alcohol, (2) opium, (3) shock at the accident.

44.

> " Eighthly," said the learned Judge, " the various admissions made by the accused."

These alleged admissions are the statements made by the appellant to Mr. Gush and the police officers. That the appellant was not in a normal condition when Mr. Gush called is also apparent from Mr. Gush's description of his state when Mr. Gush was about to take Mrs. Knowles away. Mr. Gush said that on his leaving he asked the appellant to rise from a chair in which he was seated to enable Mr. Gush and

Mrs. Knowles to leave the room, but that he did not appear to understand, and that he, Mr. Gush, lifted the chair with the appellant in it out of the way.

45. The other alleged admissions are the statements spoken of by the police officers as made in their presence on the day of his detention, the 22nd October, 1928. They are thus summarised by the learned Judge.

> " He also made several curious and significant remarks, to wit, at his bungalow, ' I think she will roll up, you know; this is a bad business, Mr. Hansen; I may go to prison ' . . . then on saying good-bye, ' Well, Mr. Hansen, if I don't see you any more ' then drawing his hand across his throat and looking upwards; and again on getting into the car" (the car that took the police and the appellant from Bekwai to Kumasi), " ' It is a bad show; if she rolls up, I am afraid I am for it.' On arrival at Kumasi, he was taken to Mr. Morris's bungalow while Major Smith went for a warrant where he said, ' The whole business is very bad.' Mr. Morris reminded him of the caution given him, when he said, ' That's all right; I don't care what happens to me; I am worried about my wife,' and a little later, ' If my wife rolls up, it means a murder case,' and again, ' It is a bad show and has upset me very much; if my wife rolls up, I will hang by the neck until I am dead.' "

46. The police officers' description of the appellant's condition on the 22nd October, 1928, was that he was very weak and ill, sweating violently, and that in rising from his bed he had to be helped to a chair as he could not walk there himself; that on the way from Bekwai to Kumasi he dozed once or twice and was sweating violently; that he conversed with the officers; that in spite of his weakness and illness he appeared to realise what was happening and was quite rational; and that they cautioned him.

47. In dealing with the alleged admission of the appellant

while under the influence of drink, drugs, and shock, the learned Judge said—

> "According to his own evidence and that of Mr. Hansen" (the appellant's dispenser), "the amount of drug taken was not very much, though he seems to have had a considerable amount of alcohol, and it is fairly certain that he would not have said all he did say had he been in full possession of his faculties. When Mr. Gush arrived on the Sunday he was undoubtedly in a dazed and confused condition, but was able to say that there had been a domestic fracas and to show his bruised leg, explaining that Mrs. Knowles had struck him with an Indian club on the Saturday. This he admits was true in fact and must have taken place very shortly before the shooting, and his remarks to the effect that he told his wife he would put a bullet through her if she did not leave the room, is very significant. When Mrs. Knowles told her story he said, 'Speak the truth,' and Mr. Gush says at this time, 'He was mentally sluggish, but I would not go so far as to say that he couldn't understand.' On 22nd October, that is the Monday, the two police officers, Major Smith and Mr. Morris, found him apparently normal, and by that I take it, he would answer in a reasonably intelligent way; that he was not 'normal' in the full sense of the word is I think shown by the fact that on the second day after the tragedy he was still in blood-stained pyjamas on sheets stained with large patches of his wife's dried and coagulated blood. As to the various remarks made to the police officers and Mr. Hansen, the prisoner states that the idea of murder never entered into his head, and he was acting under an *idée fixe* which it would take an expert to explain. To that one can only say that from that it is clear from the remarks already quoted, 'If she rolls up, I shall be hanged by the neck until I am dead,' &c., that the idea of murder was in his mind, and also that the somewhat subtle defence of an obscure mental process by which all these statements are merely manifestations of an *idée fixe* to protect his wife and

have no relation to the truth, is not one that will commend itself to a Court of law without very strong technical evidence to support it, and it must be noted that he never said it was an accident, but went out of his way to show considerable provocation."

Here it is respectfully suggested that the learned Judge has misapprehended the appellant's evidence; while it is true that the appellant did not use the word "accident," he related the circumstances showing that it was an accident as previously set forth herein. It is also suggested that the learned Judge has further misunderstood the evidence in attributing to the appellant an attempt to show considerable or any provocation for shooting: the appellant's case throughout was that he did not fire the shot.

48. Although the learned Judge rejected the prosecution's theory that the bullet found in the wardrobe was the one which wounded Mrs. Knowles, he thought that the hole in the mosquito net (which was linked up by the prosecution with that bullet and not with the one found by Kofi) presented a further difficulty for the appellant. He said as to this hole—

"All three boys swear that they never saw it until after this affair. I agree that the net has many holes in it, but they appear to be below the mattress; the net had been patched in a rather slovenly way at that place so that there was a double blackened hole.

"It is difficult to believe—

"(1) that no boy noticed the hole until after the affair;

"(2) that in this country it has been allowed to continue for months, more especially in a medical household however slack, and under the circumstances in which the prisoner said it was made;

"(3) that the blackening in the course of three months had not been worn."

That the net was continuously in a state of disrepair is apparent from the evidence of Sampson, who, when asked

why he did not mend other holes in the net, said because it was always broken. "When we mend it to-day to-morrow it breaks."

49. As to the relations of the appellant and Mrs. Knowles, the learned Judge said he had no reason to doubt that both Dr. and Mrs. Knowles were extremely fond of each other, but the ménage was, he hoped, a somewhat unusual one among the professional class.

50. In concluding his reasons the learned Judge said,

> "I confess that the real evidence is very confusing, but I think that the evidence, including that of the prisoner himself, is overwhelming, and I think there can be no reasonable doubt of the prisoner's guilt."

51. It is submitted with respect that the evidence shows that the conduct of the appellant and of Mrs. Knowles at the time of the shooting and immediately afterwards was entirely inconsistent with any attempted murder on the part of the appellant or with any intention on the part of Mrs. Knowles to conceal or misrepresent such an act. Almost immediately after the shooting, while the appellant went to the dispensary for opiates, Mrs. Knowles gave directions to the servants to clean up the blood and place the revolver in a uniform case and to give her the key. She opened and read a letter addressed to the appellant from Mr. Mangin, and on leaving for the hospital at Kumasi on the 21st of October, she kissed the appellant.

52. It is submitted that the learned Judge overlooked the paramount necessity for the prosecution to establish the guilt of the appellant, and approached the case somewhat from the standpoint that any inaccuracy in the dying deposition of Mrs. Knowles (put in evidence by the prosecution), and any difficulties that might arise in accepting the account given by the appellant, constituted substantial evidence to support a conviction. Whilst expressly rejecting the theory of the prosecution that the bullet in the wardrobe wounded Mrs. Knowles, he stated that there was no evidence that the

other bullet did so, and he does not appear to have attempted to come to any conclusion as to what did happen.

53. From the record of the case it does not appear that the learned Judge considered the question whether there was any jurisdiction to try the appellant without a jury.

The appellant submits that the conviction should be quashed for the following among other

REASONS.

1. Because there was no jurisdiction in the trial Court to try the appellant without a jury.

2. Because if it be suggested for any reason that it is "not practicable" to hold a jury trial in Ashanti, that gives no jurisdiction to try without a jury an offence punishable by death, and the case should have been referred to the Supreme Court of the Gold Coast Colony.

3. Because there was no reliable evidence upon which a conviction could safely and justly be based.

4. Because the whole trial was so unsatisfactory that the verdict cannot stand.

5. Because the learned Judge did not give effect to the paramount rule of law that the onus is on the prosecution and that it is not for the prisoner to prove his innocence.

6. Because the judgment of the trial Judge was wrong.

D. N. PRITT.
HORACE DOUGLAS.

Respondent's Case.

In the Privy Council.

From the Chief Commissioner's Court of Appeal (Eastern Province).

BETWEEN

BENJAMIN KNOWLES (Defendant), *Appellant;*

AND

THE KING (Prosecutor), *Respondent.*

CASE ON BEHALF OF RESPONDENT.

1. This is an appeal against the trial and conviction of the appellant before His Honour Frank John James Foster M'Dowell, Acting Circuit Judge of Ashanti, in the Chief Commissioner's Court of Ashanti held at Kumasi.

2. The appellant was charged for that he on the 20th day of October, 1928, at Bekwai and within the jurisdiction of the said Court murdered one Harriet Louise Knowles (hereinafter referred to as " the deceased ") contrary to sec. 224 of the Criminal Code of the Gold Coast Colony, which by sec. 3 of the Ashanti Administration Fourth Further Amendment Ordinance, 1925, was applied to Ashanti.

3. To this charge the appellant pleaded not guilty.

4. The trial of the appellant before the said Judge occupied from the 13th to the 21st of November, 1928, and judgment and sentence were delivered on the 23rd November, 1928.

5. The witnesses called by the prosecution deposed to the following (among other) facts :—

(a) Shortly after 4.30 p.m. on the 20th October, 1928, the appellant and the deceased, who were then living

together in a bungalow at Bekwai, were in a bedroom of the said bungalow, and two house boys heard the sound of a shot in the bedroom and heard the deceased cry out.

(b) At about 4.45 p.m. the District Commissioner called upon the appellant and asked if there had been any accident and if he could do anything, and the appellant said that it was all right. Later in the afternoon the District Commissioner sent to the appellant a letter offering assistance and the appellant received the said letter but returned no answer.

(c) At about 6.30 p.m. the appellant called together the house boys and rebuked and struck one of them for having made a report to the District Commissioner.

At about 6.45 p.m. on the same day house boys cleaned up blood from the floor of the bedroom in the appellant's bungalow.

(d) On the same day one of the house boys took up a revolver from the table in the bedroom and locked it in a uniform case. The revolver belonged to the appellant and had been placed under the pillow of his bed by one of the house boys when making the bed on the morning of the 20th October, 1928. On the following day Dr. Gush removed the revolver from the uniform case and found that it contained five live cartridges and one empty shell.

(e) On the 21st October, 1928, Dr. Gush went to the bungalow and saw the appellant. The appellant said to Dr. Gush, "There has been a domestic fracas," and showed him his left leg, which was covered with bruises, and stated that the deceased had been nagging him the previous afternoon, and that he had told her that if she did not leave the room he would put a bullet in her.

(f) Thereupon Dr. Gush and the appellant went into the bedroom and in the presence of the appellant Dr. Gush asked the deceased how the accident had happened, and the deceased stated that she had been examining her husband's revolver which had recently been cleaned by

the police and that she had put the revolver down on a chair and shortly after sat on it, and that she tried to remove it from underneath her, but the open-work sleeve of her dress caught in the trigger and the revolver went off. The appellant then said to the deceased, " Speak the truth," and the deceased replied, " Shut up, Benjy. You don't know what you are talking about," and the appellant made no answer.

(g) Dr. Gush examined the deceased and found a wound of entry in the left buttock and a wound of exit in the right abdomen. The wounds could have been made by a bullet from the said revolver of the appellant.

(h) The deceased died at 1 a.m. on the 23rd October, 1928, from septic peritonitis caused by the said wounds.

(i) On the 22nd October, 1928, the appellant said to Mr. Hansen, " Good-bye, Mr. Hansen; if you don't see me again," and drew his hand across his throat.

(j) On the same day the appellant said to Mr. Morris, " If my wife rolls up it means a murder case," and, " It is a bad show and has upset me very much. If my wife rolls up, I will be hung by the neck until I am dead."

(k) On the same day deceased made a statement to a District Commissioner in the presence of the appellant for the preservation of her testimony. Her statement, which was put in evidence at the trial, was similar to the statement made by her to Dr. Gush in the presence of the appellant as mentioned in sub-paragraph (f) hereof.

6. On the 19th, 20th, and 21st November, 1928, the appellant as a witness on his own behalf gave evidence in which he denied that he fired the shot which killed the deceased, and put forward an explanation of his own statements and conduct in paragraph 5 hereof mentioned. No other evidence was called for the defence.

7. The said Judge, in delivering judgment on the 23rd November, 1928, set out the principal facts proved before

him, and referred to the evidence of the said statements and conduct of the appellant and declined to accept the said explanation, and examined and rejected the evidence of the appellant and the statement of the deceased, and held that there could be no reasonable doubt of the guilt of the appellant, and convicted the appellant of the murder of the deceased, and sentenced him to death.

8. On the 29th of January, 1929, the Governor of the Gold Coast Colony, in exercise of the powers vested in him, granted unto the appellant His Majesty's pardon for the above offence on condition that he be imprisoned and kept to hard labour for the term of his natural life.

9. Special leave to appeal against the conviction and sentence was granted on the 7th May, 1929.

10. In the appellant's petition for special leave to appeal, the first submission was that there was no jurisdiction in the trial Court to try the appellant without a jury. The appellant was in fact tried without a jury. At the hearing of the said petition, it was argued on behalf of the appellant that he was entitled to trial by jury by virtue of sec. 9 of the Ashanti Administration Ordinance and secs. 117 and 118 of the Criminal Procedure Ordinance of the Gold Coast Colony.

11. By sec. 9 of the Ashanti Administration Ordinance it is provided that—

> "So far as it is practicable and local circumstances permit, the procedure of the Court, civil and criminal, shall be the same as the procedure in the Supreme Court of the Gold Coast Colony."

12. By secs. 117 and 118 of the Criminal Procedure Ordinance of the Gold Coast Colony it is provided that—

> "117. In cases tried by a jury the trial shall be with a jury of seven men who may be common or special jurors.
>
> "118. Trials in all cases punishable by death shall

be heard before a jury of seven special jurors unless the said number of special jurors are not comprised in the jurors' list for the place where the trial is had or not obtained when summoned, when the trial may be had with any less number of special jurors, the remainder of the jury being made up of common jurors."

13. Part VI (secs. 178 to 198) of the Criminal Procedure Ordinance of the Gold Coast Colony deals with the qualifications and attendance of jurors, and provision is made for the preparation of lists of jurors by the Commissioners of districts and for the marking off of persons to be special jurors and for the delivery of lists of jurors to the Registrars of Divisional Courts, and for annual revision of the lists, and for the formation of jury panels, and for exemptions from jury service, and for the summoning of jurors, and for penalties on jurors not attending, and otherwise for the operation of the jury system in connection with the Assizes of the Gold Coast Colony.

14. By secs. 23, 24, and 25 of the Supreme Court Ordinance of the Gold Coast Colony provision is made for the holding of Assizes in the said Colony at fixed places and times.

15. The judicial system of Ashanti differs widely from the judicial system of the Gold Coast Colony.

16. By sec. 6 of the Ashanti Administration Ordinance it is provided, *inter alia*, that—

"There shall be established in Ashanti a Court to be called the Chief Commissioner's Court of Ashanti which shall be a Court of Record and shall have jurisdiction throughout Ashanti. Such Court shall be presided over by the Chief Commissioner or by some person lawfully appointed under sec. 7 hereof or by the Circuit Judge; and its sittings may be held in any place within Ashanti . . ."

17. By the Judicature Ordinance of Ashanti (No. 9 of 1919) provision was made for the appointment of a Circuit Judge and for the appointment in certain events of a fit

and proper person to act as Circuit Judge, and it was further provided—

> By sec. 3—" The Circuit Judge shall have and may exercise all the judicial powers and jurisdiction which in respect of criminal causes and matters were immediately prior to the commencement hereof vested in the Chief Commissioner."
>
> By sec. 5—" The Circuit Judge may hold sittings of the Chief Commissioner's Court at such times and at such places within Ashanti as such Judge shall appoint."
>
> By sec. 9 (with an immaterial exception)—" No trial of any capital charge shall be commenced or continued in the Chief Commissioner's Court save when and where the Circuit Judge presides over such Court."

18. In Ashanti no regular assizes are held and trial by jury has not been introduced into the judicial system, and no machinery for settling the qualifications of jurors or for empanelling or summoning them has been set up.

19. By the Ashanti Administration Fourth Further Amendment Ordinance (No. 7 of 1925) the Criminal Code of the Gold Coast Colony was applied as a whole (with certain specified exceptions) to Ashanti and it was expressly provided in the schedule to the said Ordinance that—

> " The application of the Code shall not operate to alter the judicial system presently established in Ashanti."

20. The Criminal Procedure Ordinance of the Gold Coast Colony has never been applied as a whole to Ashanti. Certain other provisions of the said Ordinance have been expressly applied to Ashanti, but none of the provisions of Part VI of the said Ordinance relating to the qualifications and attendance of jurors has been applied to Ashanti.

21. Sec. 118 of the said Criminal Procedure Ordinance only applies to a trial tried upon an information of the Attorney-General of the Gold Coast Colony (Part IV " Trial

upon Information "). Sec. 69 of the same Ordinance provides that every criminal cause which is not heard and determined by summary trial shall be tried in the Supreme Court upon an Information.

22. No provision is made for Informations by the laws of Ashanti, and no authority is given to the Attorney-General of the Gold Coast Colony by such laws to sign or file an Information in Ashanti, and sub-sec. 1 of sec. 17 of the Ashanti Commissioners Ordinance (No. 4 of 1907), as amended by the Ashanti Commissioners Amendment Ordinance of 1920 (No. 18 of 1920), sec. 3, provides " that an authenticated copy of the depositions and the statement of the accused shall be transmitted to the Commissioner of Police instead of to the Attorney-General."

23. The Acting Circuit Judge had jurisdiction to try the appellant, and trial by jury does not form part of the judicial system of Ashanti, and, accordingly, it was lawful for the Acting Circuit Judge to try the appellant without a jury.

24. It was not practicable, nor permitted by local circumstances, to conduct the said trial in accordance with the provisions of sec. 118 of the Criminal Procedure Ordinance of the Gold Coast Colony.

25. In the appellant's petition for special leave to appeal it was further submitted—

(2) That there was no reliable evidence upon which a capital conviction could safely and justly be based.

(3) That the learned Judge did not give effect to the paramount rule of law in a criminal case that the onus of proof is on the prosecution and that it was not for the appellant to prove his innocence.

Both submissions are denied on behalf of the respondent.

26. In the appellant's said petition it was further submitted—

(4) That there was power and jurisdiction under the Ashanti Administration to refer the case to the Supreme

Court of the Gold Coast Colony when the appellant would have been entitled to a jury and to be represented by counsel and solicitor and that the case should have been referred.

And in support of this submission reliance was placed upon sec. 17 of the Ashanti Administration Ordinance.

27. By sec. 17 of the Ashanti Administration Ordinance it is provided that—

> "It shall be lawful for the Chief Commissioner with the approval of the Governor in writing to refer to the Supreme Court of the Gold Coast Colony any matter or cause civil or criminal."

28. It is submitted on behalf of the respondent that the said sec. 17 is merely facultative, and that there was no obligation upon the Chief Commissioner or any other person to exercise, nor upon the Governor to approve the exercise of, the power conferred by the said section.

29. It is submitted that the appeal should be dismissed and the conviction should be affirmed for the following among other

REASONS.

1. Because there was jurisdiction in the trial Court to try the appellant without a jury.

2. Because the conviction is right.

3. Because there has been no disregard of the forms of legal process.

4. Because there has been no violation of the principles of natural justice.

5. Because no injustice has been done.

6. Because there was sufficient evidence to support the conviction.

7. Because the learned Judge did not misdirect himself as to the onus of the proof.

8. Because there was no obligation on the Chief Commissioner of Ashanti or any other person to refer the case to the Supreme Court of the Gold Coast Colony nor any obligation upon the Governor to approve such reference.

WILLIAM A. JOWITT.
KENELM PREEDY.

Benjamin Knowles.

PROCEEDINGS ON THE HEARING OF THE APPEAL.[1]

JUDICIAL COMMITTEE OF THE PRIVY COUNCIL.

KNOWLES *v.* R.

Before the LORD CHANCELLOR (LORD SANKEY), LORD DUNEDIN, LORD DARLING, LORD ATKIN, and LORD THANKERTON.

Their lordships began the hearing of the appeal of Dr. Benjamin Knowles against the judgment by which, on 21st November, 1928, he was found guilty at Kumasi, Ashanti, British West Africa, of the murder of his wife, Mrs. Harriet Knowles, and was sentenced to death. That sentence was afterwards commuted by the Governor of the Gold Coast.

For some time before 20th October, 1928, Dr. Knowles lived at Bekwai, Ashanti, where he practised as a medical practitioner, being employed by the Administration of the Colony of Ashanti as medical officer in charge of the Bekwai district. On 21st October he was arrested on a charge of shooting with a revolver his wife, who was stated formerly to have been known as Madge Clifton and to have been a music-hall artiste.

On 20th October Dr. and Mrs. Knowles had a luncheon party at their bungalow at which various Government officials were present. About two hours after the guests had left Mrs. Knowles, who was then in the bedroom with Dr. Knowles, received a wound from a revolver bullet, with the result that on 23rd October she died in Kumasi Hospital. In a dying deposition she declared that the revolver had been fired by her accidentally while she was getting up from a chair on which she had placed it. Dr. Knowles treated her, and it was stated at the trial that his treatment was proper and good practice.

It was also stated at the trial that after the accident Mrs.

[1] Reprinted from *The Times* of the 19th and 20th November, 1929, with small additions from the report in the "Law Reports," [1930] A.C. 366.

Knowles said, " People will think that I have done this purposely," and that Dr. Knowles replied, "All you have to do is to lie quiet. I will take all the blame."

The case for the prosecution was that Mrs. Knowles's dying deposition was false, and was a " sporting effort " to shield Dr. Knowles.

Dr. Knowles's defence was that, as he had been sleeping badly and was very tired, he went to bed some time after luncheon and was half-asleep when Mrs. Knowles came into the bedroom and began to undress, placing her garments on a chair, and that, while he was dozing, he heard a shot and Mrs. Knowles cried, " Oh, my God, I'm shot! "

In giving judgment, the Acting Circuit Judge, who tried the case without a jury, said that the question which he had to decide was whether what had occurred was an accident or whether Mrs. Knowles's statement was the untruthful effort of a generous woman to save her husband from the consequences of his crime. The evidence was very confusing, but, in his opinion, it was overwhelming, and there could be no doubt about Dr. Knowles's guilt.

Last March Dr. Knowles was granted special leave to appeal on the grounds (1) that there was no jurisdiction in the Court of trial to try him without a jury; (2) that there was no reliable evidence on which a capital conviction could safely and justly be based; (3) that the Judge did not give effect to the paramount rule of law in a capital case, that the onus of proof was on the prosecution; and (4) that the case should have been referred to the Supreme Court of the Gold Coast and tried with a jury.

The Crown submitted that the appeal should be dismissed on the grounds that there was jurisdiction in the Court of trial to try Dr. Knowles without a jury; that there had been no disregard of the forms of legal process; that there had been no violation of the principles of natural justice; and that no injustice had been done.

Mr. D. N. Pritt, K.C., and Mr. Horace Douglas appeared for Dr. Knowles; the Attorney-General (Sir William Jowitt, K.C.) and Mr. C. H. Pearson for the Crown.

Mr. PRITT, in opening the appeal, dealt first with the question whether the acting Judge had power to try Dr. Knowles without a jury. He said that secs. 8 and 9 of the Ashanti Administration Ordinance (No. 1 of 1902) provided that in criminal matters the Court should be guided by the Criminal Code of the Gold Coast, and that so far as was practicable and local circumstances permitted the procedure in the Court, civil and criminal, should be the same as the procedure in the Supreme Court of the Gold Coast. By sec. 14 of the Supreme Court Ordinance of the Gold Coast Colony, 1920, the common law, the doctrines of equity, and the statutes of general application which were in force in England in 1874 (when the Colony obtained a local Legislature) should be in force.

Sec. 118 of the Criminal Procedure Ordinance of the Gold Coast Colony, 1920, provided that trials in all cases punishable by death should be heard by a jury of seven special jurors unless that number of special jurors were not comprised in the jurors' list for the place where the trial was had, or were not obtained when summoned. In those cases the trial might be had with a less number of special jurors, the remainder of the jury being made up of common jurors.

The printed case for the Crown contended that sec. 118 of the said Ordinance did not apply because it was in a part of the Ordinance headed " Trials upon information," and the law of Ashanti makes no provision for informations. But even if that heading could affect the imperative terms of sec. 118, the Commissioner of Police signed the charge, and for that purpose he represented in Ashanti the Attorney-General. If that part of the Ordinance did not apply, there was no power in Ashanti to try an indictable offence; nor was there power to take the dying deposition, as the section providing for that was in the same part. The Judicature Ordinance of Ashanti (No. IX of 1919) contemplated that a trial for murder should be with a jury, as it provided that a trial for murder should not take place unless the Circuit Judge " presides over " the Court.

Counsel pointed out that, whereas sec. 10 of the Ashanti Ordinance " in a line and a half " prohibited the employ-

ment of barrister or solicitor in any case, civil or criminal, it contained no provision depriving a defendant in a criminal case of the right to trial by jury, although it would have been easy to do so.

LORD DARLING—Has there ever been a trial by jury in Ashanti?

Mr. PRITT—I do not know.

Counsel, continuing, said that the Attorney-General had stated in the case for the Crown that trial by jury had not been introduced into the judicial system of Ashanti. If that were so, it disclosed a shocking state of affairs.

LORD DARLING—To try a person without a jury would not shock me a bit.

Mr. PRITT—Your lordship will remember that there are judges and judges.

The ATTORNEY-GENERAL said that the question was one of great gravity. His task was merely to bring to the notice of their lordships such considerations as he thought relevant that they might do what was right. The real point turned on sec. 9 of the Ashanti Administration Ordinance. Under that section the procedure of the Supreme Court of the Gold Coast was to be followed in Ashanti so far as it was practicable and local circumstances permitted. The practicability referred to Ashanti as a whole, and " local circumstances " to a particular district. Their lordships would assume that those matters had all been regarded by those whose duty it was to consider them, and would assume, in the absence of clear proof to the contrary, that the jury system had been properly found not to be practicable in Ashanti or not to be permitted by the local circumstances.

The Criminal Procedure Ordinance had never been applied as a whole to Ashanti. None of the provisions of Part VI of the Ordinance, which related to the qualifications and attendance of jurors, had been applied to Ashanti. Furthermore, sec. 118, which referred to the trial of capital cases by a jury, only applied to cases tried on an information by the

Attorney-General of the Gold Coast. There was no Attorney-General of Ashanti, no provision was made for informations by the laws of Ashanti, and no authority was given to the Attorney-General of the Gold Coast to sign or file an information in Ashanti.

Mr. PRITT, in reply, said that, if it had to be assumed that the trial of Dr. Knowles by a jury was impracticable, two points arose. First, the Ordinances could be searched from end to end, but no suggestion of a jurisdiction in Ashanti to try persons on charges of murder without a jury could be found. If a jury in Ashanti was impracticable, it followed that such a case should be sent to the Gold Coast for trial. Secondly, though sec. 9 of the Ashanti Administration Ordinance said that the procedure of the Gold Coast was to be followed if practicable and permitted by local circumstances, sec. 8 in terms provided that, in the absence of an Ashanti law to the contrary, the Ashanti Courts were to be guided by Gold Coast law. By sec. 14 of the Supreme Court Ordinance that includes the common law of England.

After their lordships had considered those contentions, the LORD CHANCELLOR intimated to Mr. Pritt that they would like to hear the main portion of his argument.

Mr. PRITT, addressing their lordships on the facts of the case, said that Dr. Knowles and his wife were on affectionate terms. They lived at Bekwai in rather a slovenly fashion and they both drank rather more than would be expected of people in their social position. There was some evidence that Dr. Knowles, without being a drug addict, took doses of morphia to help him to sleep.

The fact that there was a revolver in the bedroom on 20th October, 1928, which might be thought to be a sinister feature, could be left out of consideration as a ground of suspicion against Dr. Knowles, because the evidence showed that a revolver was always kept in the bedroom and that at night it was kept cocked.

Besides Dr. Knowles and his wife there were present at the luncheon party the District Commissioner, another official, and the agent of a big trading company. It was a cheerful

party. Both Dr. Knowles and his wife had had something to drink, but they were not drunk.

The party broke up about 2.30, and Dr. Knowles, as was customary in that climate, then went to bed for the afternoon. At 4.30 two native servants, who were preparing tea in the lounge, which was next to the bedroom, heard a shot. No quarrel preceded that shot.

The medical evidence was consistent with Mrs. Knowles's statement in which she said that the revolver went off accidentally when it caught in her dress as she was trying to pull it from beneath herself on a chair.

Counsel said that, on an accumulation of many things done ill rather than on any one striking thing done ill, he submitted that there had been a substantial and grave injustice. Things were used against Dr. Knowles which ought never to have been used, and there was a violation of the principles of natural justice. Dr. Knowles seemed to have been convicted because the presiding Judge thought that he saw inaccuracies or inconsistencies in Mrs. Knowles's dying disposition which was put in evidence by the prosecution. Nothing could be more unsatisfactory in a case where the prisoner was not represented by counsel or solicitor.

In her dying deposition Mrs. Knowles said that on the date of the accident there was a revolver lying on a bookcase. It had been cleaned and she put it on a table near the bed. The "boy" entered with the afternoon tea and she put the revolver carelessly on a chair. "I took a cup of tea," she added, "while I was sitting on the chair. I sat on the gun. As I got up, it caught in my dress with a lace frill. I tried to take it away from the lace and suddenly it went off."

The Acting Circuit Judge, in his judgment, said that the accuracy of Mrs. Knowles's statement was challenged by the prosecution, and the Court had to decide whether the statement was the untruthful effort of a generous woman to save her husband from the consequences of a crime. He, it was submitted, fell into the error of assuming that, if the statement were untrue, it would go a long way towards establishing Dr. Knowles's guilt.

Later in his judgment the Acting Circuit Judge said that

Mrs. Knowles had stated that the revolver was on the table in the first place, while Dr. Knowles's recollection was that it was on the bookcase. Mrs. Knowles, in her deposition, had said that the revolver was on the bookcase. That was a very grave error. " In a ' running down ' case tried in a county Court such inaccuracy would be unfortunate," said counsel. " In a murder case tried without counsel it is shocking."

Dealing with the question whether the murder was premeditated, counsel said that the Acting Circuit Judge had regarded it as " significant " that on the day after the incident Dr. Knowles told one of the witnesses that he had told his wife on the previous day that he would " put a bullet through her if she did not stop nagging and leave the room."

LORD DARLING—Having regard to the sort of man he was, I should say that, in using those words, he did not mean that he would kill her, but that he would take a shot at her to stop her nagging.

Mr. PRITT—Having said so much, one would expect him to add, " And I jolly well did shoot her ! "

LORD DARLING—Of course, even if I am right, it might equally well be murder.

LORD ATKIN—It would be murder in this country, but I am not sure that it would be murder in Ashanti.

[By Ashanti law murder is defined as " intentionally causing the death of another person by any unlawful harm."]

LORD DARLING—That is another reason for living here and not in Ashanti.

Mr. PRITT, continuing, said that the Acting Circuit Judge said in his judgment that it must be noted that Dr. Knowles had never said that the shooting was an accident, but that he went out of his way to show considerable provocation. Surely, however, the true position was that Dr. Knowles had continuously been saying that the affair was an accident.

The LORD CHANCELLOR said that the Acting Circuit Judge

examined the case for the prosecution and rejected it. He then examined four possibilities which had occurred to him and rejected three of them, apparently not dealing with the fourth. He then dealt with the difficulties in the way of the defence. He then said that the case against Dr. Knowles was overwhelming, whereas all he had done was to find that the theories which had been presented were quite impossible.

Their lordships shortly afterwards intimated that they did not wish to hear Mr. Pritt further.

The ATTORNEY-GENERAL said that he welcomed the investigation. He would like it to be as wide as possible. If the Acting Circuit Judge had dealt with the case on the lines that he had heard Mrs. Knowles's evidence and was not satisfied with it and was, therefore, satisfied that Dr. Knowles was guilty, it was obvious that the conviction could not stand for a moment. But, disregarding Mrs. Knowles's statement altogether, the evidence was sufficient to justify the Judge in giving the judgment which he did and forming the reasons on which he based it. The question at the trial was whether it had been proved that Mrs. Knowles's death was caused by a shot fired by her husband. It was not illogical for the Judge to answer that question in the affirmative and also to say that he was not satisfied which of two revolver bullets caused the death.

LORD DARLING drew attention to the fact that Dr. Knowles had told one of the witnesses that on 20th October Mrs. Knowles had struck him with an Indian club, bruising his leg, and that " she used to think an Indian club was sufficient to stop an argument once or twice." His lordship asked whether, in view of possible provocation, the Acting Circuit Judge considered the question whether Dr. Knowles, if not guilty of murder, was guilty of manslaughter.

The ATTORNEY-GENERAL—No, my lord, he never dealt with that. Counsel submitted that, as the case for the prosecution was that Dr. Knowles fired from his bed, which was within a mosquito net, the Indian club incident could be ignored.

LORD THANKERTON—Is there any evidence that Mrs. Knowles's wound could have been inflicted from the bed?

The ATTORNEY-GENERAL—I do not think that there is any precise evidence, but I think it is quite obvious that it could be. Continuing, counsel said that, apart from the statement of Mrs. Knowles, there was some case for Dr. Knowles to answer. Was that *prima facie* case destroyed by the evidence of Dr. Knowles and his wife? A judge was clearly entitled to come to the conclusion, not only that a prisoner's explanation did not make things any better for him, but that it made things worse. The Acting Circuit Judge considered the evidence of Dr. Knowles and Mrs. Knowles and came to the conclusion that, so far from that evidence making the position any better for Dr. Knowles, his own statement, at any rate, made it worse.

After their lordships had conferred for a short period, the LORD CHANCELLOR said that the Committee proposed to advise the King to allow the appeal and to quash the conviction. Their lordships' reasons would be given later.

ORDER IN COUNCIL ALLOWING APPEAL.

AT THE COURT AT BUCKINGHAM PALACE

The 17th day of December, 1929.

Present: THE KING'S MOST EXCELLENT MAJESTY, LORD PRESIDENT, MR. AITCHISON, LORD COLEBROOKE, LORD JUSTICE ROMER, MR. BUXTON, and SIR JOHN ASTBURY.

WHEREAS there was this day read at the Board a Report from the Judicial Committee of the Privy Council dated the 19th day of November, 1929, in the words following, viz.:—

"WHEREAS by virtue of His late Majesty King Edward the Seventh's Order in Council of the 18th day of October, 1909, there was referred unto this Committee the matter of an Appeal from the Chief Commissioner's Court of Ashanti Eastern Province between Benjamin Knowles, Appellant, and Your Majesty, Respondent (Privy Council Appeal No. 54 of 1929), and likewise a humble Petition of the Appellant setting forth that the Appellant was on the 22nd October, 1928, arrested on a warrant charging him that he on the 20th October, 1928, at Bekwai, within the jurisdiction of the Supreme Court of the Gold Coast Colony, did use a certain firearm, to wit, a revolver with intent unlawfully to cause dangerous harm to one Mrs. Knowles, contrary to section 203 of the Criminal Code: that on the 13th November, 1928, the Appellant was charged before the Acting Circuit Judge of Ashanti in the Chief Commissioner's Court of Ashanti, held at Kumasi, for that he on the 20th October, 1928, at Bekwai, within the jurisdiction of the Court, did murder one Harriet Louise Knowles, contrary to section 224 of the Criminal Code: that the Court gave judgment on the 23rd November, 1928, finding the Appellant guilty and sentencing him to death: that the sentence of death has been commuted by His Excellency the Governor to imprisonment for life: that the Appellant obtained special

leave to appeal to Your Majesty in Council by Order in Council dated the 7th May, 1929: And humbly praying Your Majesty in Council to take this Appeal into consideration and that the Judgment and Sentence dated the 23rd November, 1928, may be reversed and set aside or for such further or other relief in the premises as to Your Majesty may seem meet:

"THE LORDS OF THE COMMITTEE, in obedience to His late Majesty's said Order in Council, have taken the Appeal and humble Petition into consideration and having heard Counsel on behalf of the Parties on both sides Their Lordships do this day agree humbly to report to Your Majesty as their opinion that this Appeal ought to be allowed and the Judgment and Sentence of the Chief Commissioner's Court of Ashanti Eastern Province dated the 23rd day of November, 1928, set aside."

HIS MAJESTY having taken the said Report into consideration was pleased by and with the advice of His Privy Council to approve thereof and to order, as it is hereby ordered, that the same be punctually observed, obeyed, and carried into execution.

Whereof the Governor or Officer administering the Government of the Gold Coast for the time being and all other persons whom it may concern are to take notice and govern themselves accordingly.

M. P. A. HANKEY.

REASONS FOR THE REPORT OF THE LORDS OF THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL, DELIVERED THE 10TH MARCH, 1930.

Present at the Hearing: THE LORD CHANCELLOR, VISCOUNT DUNEDIN, LORD DARLING, LORD ATKIN, and LORD THANKERTON. (Delivered by VISCOUNT DUNEDIN.)

This appeal, for which special leave was granted by His Majesty in Council, is against a conviction of the appellant for the murder of his wife, Mrs. Knowles, by the Acting Circuit Judge of Ashanti on the 23rd November, 1928. The case was tried by the Judge without a jury, and the appellant was not allowed the assistance of either solicitor or counsel. The grounds of appeal are, first, no jurisdiction, and, second, that there was no evidence on which a conviction of murder could be maintained.

The Court of Ashanti by which the appellant was tried was established by the Ashanti Administration Ordinance No. 1 of 1902. The sections of the Ordinance, as amended by subsequent Ordinances which bear on the method of trial in criminal cases are the following:—

Sec. 8—" Where not otherwise provided by some other statute, ordinance, or other law for the time being in force in Ashanti, the Court shall in causes and matters brought or arising before it, be guided by the law in force in the Gold Coast Colony as set forth in sections 14-19 of the Supreme Court Ordinance of the said Colony."

Sec. 9—" So far as it is practicable and local circumstances permit, the procedure in the Court, civil and criminal, shall be the same as the procedure in the Supreme Court of the Gold Coast Colony."

Sec. 10—" In no cause or matter, civil or criminal, shall the employment of a Barrister or Solicitor be allowed."

It is unnecessary to quote the various sections of the Acts which regulate procedure in the Gold Coast, as it is clear that if the trial had been in the Gold Coast it would have been imperative to have a jury for a capital case, and the prisoner would, if he chose, have had the assistance of counsel and solicitor.

The appellant therefore contends that a jury for a capital case was a *sine qua non*, and that a conviction by a Judge sitting alone cannot stand.

The Attorney-General stated, and it was not denied by the appellant, that as a matter of fact there never has been hitherto trial by jury in Ashanti.

Now the direction that in Ashanti the criminal procedure of the Gold Coast shall be the guide is not absolute, but is qualified by the provisions of sec. 9. If jury trial is not practicable, or not permitted by local circumstances, then the direction does not apply. Practicability and the state of local circumstances are questions which can only be determined in Ashanti on the spot. It is impossible for their lordships of this Board to form a conclusion on such matters, and it is not for them to turn themselves into a local tribunal. They are of opinion that this is a matter to which the maxim *Omnia præsumuntur rite et solemniter acta* clearly applies, and they are therefore unable to sanction this ground of appeal.

Before dealing with the question of the evidence their lordships think it necessary emphatically to repeat what has been said on many occasions, that they do not sit as a Court of Criminal Appeal. To allow criminal proceedings to be reviewed, to use the words of Lord Watson in *Dillet's* case, 12 A.C. 459, at p. 467, there must have been "substantial and grave injustice done." In the present case, if it had turned out that it was against the law for a judge to try a capital case without a jury, that would have been substantial injustice, for it would have been conviction without jurisdiction, and it was on that ground that leave of appeal was manifestly granted. But the case once brought up, it is incumbent on their lordships to examine the judgment as given. Even in this somewhat exceptional case, however, their lordships are still not sitting as an ordinary criminal

Court of Appeal in which case they would be entitled to consider what would have been their own verdict. Though the criterion is hardly as strict as it would have been on an application for leave based on the simple ground that the evidence did not support the verdict, yet they must be satisfied to use the words of Lord Sumner in *Ibrahim* v. *The King*, [1914] A.C. 599, at p. 615, " there is something which in the particular case deprives the accused of the substance of fair trial."

Now the facts of the case as proved are simple enough. The appellant and his wife were alone in their bedroom after luncheon. There had been guests at luncheon, and they had gone away shortly after 2 p.m. without anything noticeable having happened. Their native servants heard loud voices suggestive of quarrelling. The appellant and his wife, it was proved, lived generally on good and, indeed, affectionate terms, but had occasional quarrels which were greatly induced by the fact that both the appellant and his wife were addicted to the taking of too much liquor, and the appellant drugs, and were often in a drunken or semi-drunken and dazed condition.

The evidence as to the time is confused and contradictory, but somewhere between 4 and 5 the native servants heard a shot and a cry. They were frightened, and one of them ran off to the District Commissioner, who had been one of the guests at the luncheon, and said what he had heard. The District Commissioner took his car and went off to the house of the accused, whom he saw, and asked if there had been an accident. The accused said it was all right. The District Commissioner then went away. The native servant went back again later, and two hours later the District Commissioner wrote a note saying the native servants were very excited, and asking if he could be of any service. To this letter he got no reply. About the same time the native servant was called into the room and told to clean up a pool of blood. The accused said to his wife he would like to send her to the hospital. He then said he would go himself, and went. When he was gone, the cook, by desire of Mrs. Knowles, lifted a revolver which was by the bed and put it into a box, locked

it, and gave her the key. While clearing up the blood he picked up something which he did not recognise, but which was a revolver bullet.

That evening the accused got a sleeping draught containing morphia from the dispensary of the hospital. Next evening he got a repetition of the medicine and a hypodermic syringe with two ampules of morphia. About 3 o'clock that day Dr. Gush, who lived at Kumasi, heard that something had happened and in consequence drove down to Bekwai, where the accused lived. He found the accused in a somewhat dazed condition and bearing signs of the results of alcohol and the drugs above referred to. The accused volunteered the information that there had been "a domestic fracas," and showed him his left leg covered with bruises which he said had been inflicted by his wife with an Indian club. He also said that she had been nagging him, and he had said if she didn't stop he would put a bullet in her. Dr. Gush asked to see Mrs. Knowles, and heard her say she would like to see him. He then went into the bedroom with the accused and examined the wounds, which he found had been treated with iodine by the accused—a proper, though in the circumstances, scarcely a sufficient treatment. The wound was such a wound as would be inflicted by a revolver bullet. It was in a peculiar direction. The bullet had entered the left buttock and proceeded in an upward direction, and making its exit at the lower side of the abdomen on the right side, having, as was afterwards disclosed at a post-mortem, pierced the intestine, the bladder, and the uterus. It was not bleeding directly when Dr. Gush saw it, but there was some blood coming from the vagina.

He asked Mrs. Knowles how the accident happened, and she said she had been examining her husband's revolver which had been recently cleaned by the police; that she had put the revolver down on a chair, and shortly after sat upon it; that she tried to remove it from underneath her, but the open-work sleeve of her dress caught in the trigger and the revolver went off.

Dr. Gush said she must go to the hospital but had better have a bath first. He found the accused at the fire quite

dazed. He went to fetch his car, and on coming back got the revolver from Mrs. Knowles, and found in it five cartridges and one empty shell. He noticed a hole in the mosquito net which covered the two beds. Mrs. Knowles died the next day, but before she died she made a dying declaration. This was to the same effect as to what she had said to Dr. Gush with two small differences. She mentioned that the revolver had been cleaned, but did not say " by the police," and she said that before it happened the boy had come in with afternoon tea. Other matters to be mentioned are that the mosquito net had several holes in it; that the accused said that on one occasion his wife had put a bullet past him while he was in bed; that another bullet was found by the police and certain marks on the furniture. Further, on the 22nd October the Acting and Assistant Commissioner of Police went to Bekwai and found the accused in bed, lying in blood-stained sheets and having on blood-stained pyjamas. He was weak and ill, but they considered him rational. They told him that they were going to detain him on a charge of causing grievous bodily harm and that a dying declaration was to be taken from his wife. He then made several remarks, viz., " I think she will roll up " (*i.e.*, die), " This is a bad business; I may go to prison," " If she rolls up, I am afraid I am for it." He went with them to Kumasi, and in the Assistant Commissioner's bungalow, while the Acting Commissioner went for a warrant, he said, " I don't care what happens to me, I am worried about my wife," and then, " If my wife rolls up, it means a murder case," and again, " If my wife rolls up, I will be hung by the neck until I am dead."

Their lordships must now examine the judgment. In the judgment of the Circuit Judge is to be found what to a jury would have been the summing up, and then the verdict. Now the judge examines at great length the possibilities as to which bullet of the two bullets found, one of which had made dents in the furniture, was the bullet which caused the wound. Upon this question he comes to no certain conclusion, being oppressed by the difficulties as to either theory. In their lordships' view this inquiry is quite by the mark. It is quite certain that the deceased was killed by a revolver

bullet, and there being no certain evidence as to the position of the parties at the time, no conclusions can be drawn from the possible indicia as to the flight of the bullet. The Judge next takes up the story of the deceased as given in the evidence of Dr. Gush, and as given in the wife's dying declaration, and along with it the story as given by the prisoner himself when he gave evidence at the time. That story, abbreviated, is as follows: That he had had a quarrel with his wife about nothing, which ended; that he then went to bed to sleep; that he saw his wife come in and start to undress and afterwards went to sleep; that there was a shot fired which woke him, and he heard his wife say she had been shot; that he jumped up and said, " Show me; show me " (this was a remark heard by one of the servants behind the door); that he plugged the wound and put her to bed, and she said " People will think I have done this purposely," to which he replied she had only to lie quiet and he would take the blame. That he did not trouble about the District Commissioner's note, as being a medical man himself he had done what was needful and that he did not want her disturbed. That afternoon he took drink and drugs, and to use his own words, " I had the fixed idea of protecting my wife, and didn't realise until later that my statements were dangerous. I had an idea fixed that I would take any punishment if I could save my wife."

As regards the revolver he said that he usually kept it under his pillow fitted in a holster; that on this occasion he took it out of the holster, cocked it, and laid it on the bookcase. The Judge then examines these accounts and finds them unsatisfactory. He is particularly pressed by the statement of Mrs. Knowles as to the servant bringing tea, which was not true, and he saw no reason for the appellant taking out the revolver and cocking it, and points out the discrepancy as to its place, the appellant saying it was on the bookcase, while Mrs. Knowles said it was on the chair. He lays stress on the various remarks made by the appellant after the event, which he considers were not made, except as to those on the 22nd when in a dazed condition. He thinks it proved that there was a domestic fracas, and considers the remark,

that he would put a bullet through his wife if she did not stop, very significant. He therefore comes to the conclusion that the wife's story was not true, and then he says, " Taken as above, the evidence against the prisoner is overwhelming."

Now the learned Judge was entitled to draw his own conclusions as to whether Mrs. Knowles's account was true, and their lordships, not being, as above stated, an ordinary Court of Criminal Appeal, would not consider themselves entitled to set that aside upon the ground that they would come to a different conclusion on the facts as found. Having come to the conclusion that the story of an accident could not be substantiated, and the position and direction of the wound excluding all idea of deliberate self-infliction, he was driven to the conclusion that the shot was fired by the appellant. That there was criminality in what happened is a necessary result of that conclusion. In a fit of drunken recklessness to fire a shot to silence a nagging woman, which shot the woman, even though the shot was not intended to hit her, is a crime. But the fatal flaw in the judgment is that having set aside Mrs. Knowles's account of the occurrence as accident, he at once assumed that the only alternative to accident is murder. There is not the slightest inquiry into whether, assuming that the shot was fired by the accused, the act amounted to manslaughter and not murder. There is no attempt to face the question of whether the standard of proof required to prove murder as against manslaughter, has in this case been reached. If the case had been before a jury and the Judge had not explained to them the possibility of a verdict of manslaughter, but had said if not accident the only alternative is murder, that would have been an erroneous summing-up. That is what is to be found in the judgment. The question as between manslaughter and murder is entirely undealt with, and their lordships are therefore, as the learned Judge failed to consider the question, bound to consider whether the evidence here reached the standard of proof necessary to involve a conviction for murder. They are clearly of opinion that it did not. A conviction for manslaughter might have been a different matter, but that is not before their lordships. They have therefore humbly advised His Majesty to quash the conviction.

APPENDICES.

APPENDIX I.

LAWS OF ASHANTI.

ASHANTI ADMINISTRATION.

ORDINANCE No. 1 OF 1902.

[Now Chapter 1 of the Revised Edition of the Laws of Ashanti issued in November, 1928.]

An Ordinance to provide for the Administration of the Government of Ashanti.

. . . . . .

PART 2.—CHIEF COMMISSIONER'S AND COMMISSIONERS' COURTS.

6.[1] There shall be established in Ashanti a Court to be called the Chief Commissioner's Court of Ashanti which shall be a Court of Record and shall have jurisdiction throughout Ashanti. Such Court shall be presided over by the Chief Commissioner or by some person lawfully appointed under section 7 hereof or by the Circuit Judge; and its sittings may be held in any place within Ashanti. Save as otherwise by any other law for the time being in force provided, and save in respect of divorce and matrimonial causes and matters, the president of such Court shall have and may exercise as full judicial powers and jurisdiction within Ashanti as a judge of the Supreme Court of the Gold Coast Colony sitting in a Divisional Court of the Supreme Court has and can exercise in the said Colony. (*As amended by* 10 *of* 1919, *sec.* 2.)

[1] Sec. 5 in Revised Edition.

7.[2] The Governor or the Chief Commissioner may at any time by Order under his hand appoint a fit and proper person to preside over the Chief Commissioner's Court; and such person shall have and may exercise during such appointment and subject to the terms thereof all the judicial powers and jurisdiction for the time being vested in the Chief Commissioner. (*As substituted by* 10 *of* 1919, *sec.* 3.)

8.[3] Where not otherwise provided by some other statute, ordinance, or other law for the time being in force in Ashanti, the Court shall in causes and matters brought or arising before it, be guided by the law in force in the Gold Coast Colony as set forth in sections 14-19[4] of the Supreme Court Ordinance of the said Colony. (*As substituted by* 7 *of* 1925, *sec.* 2.)

9.[5] So far as it is practicable and local circumstances permit, the procedure in the Court, civil and criminal, shall be the same as the procedure in the Supreme Court of the Gold Coast Colony. (*As amended by* 3 *of* 1907, *secs.* 5 *and* 7 *of* 1918, *sec.* 2.)

10.[6] In no cause or matter, civil or criminal, shall the employment of a barrister or solicitor be allowed. (*Added by* 6 *of* 1906, *sec.* 2.)

. . . . . .

17.[7] It shall be lawful for the Chief Commissioner with the approval of the Governor in writing to refer to the Supreme Court of the Gold Coast Colony any matter or cause, civil or criminal.

. . . . . .

19.[8] No appeal shall lie from the decision of the Chief

[2] Sec. 6 in Revised Edition.

[3] Sec. 7 in Revised Edition.

[4] Now sec. 14-19 of cap. 158 of the Revised Edition of the Laws of the Gold Coast Colony.

[5] Sec. 8 in Revised Edition.

[6] Sec. 9 in Revised Edition.

[7] Sec. 16 in Revised Edition.

[8] Sec. 18 in Revised Edition.

Commissioner or other person presiding in the Chief Commissioner's Court in any criminal matter. (*As substituted by* 3 *of* 1907, *sec.* 8.)

THE ASHANTI ADMINISTRATION FOURTH FURTHER AMENDMENT ORDINANCE.

No. 7[9] of 1925.

. . . . . .

22. The Ordinances of the Gold Coast Colony specified in the second column of the schedule hereto and all enactments amending the same shall, so far as they are applicable and local circumstances permit, be in force and apply to Ashanti; and, for the purpose of facilitating the application of the said ordinances the same shall be construed with such verbal alterations and other modifications not affecting the substance as may be necessary to render the same applicable, and in particular the said ordinances in their application to Ashanti shall be modified in the manner set forth at the head and in the third column of the said schedule. (*As substituted by* 6 *of* 1919, *sec.* 2, *and amended by* 7 *of* 1921, *sec.* 2.)

SCHEDULE.

MODIFICATIONS TO BE MADE IN APPLICATION TO ASHANTI. GENERAL PROVISIONS IN RESPECT OF APPLIED ORDINANCES.

Unless the context otherwise requires and except where otherwise expressly provided—

(1) Wherever the expressions "Governor in Council" occurs in or under any ordinance, the word "governor" shall be substituted therefor:

. . . . . .

(4) For "Chief Justice," "Senior Judge of the Province," and "Judge of the Province," wherever such expression occurs in or under any ordinance there shall be substituted

[9] Now included in chapter 1 of Revised Edition of the Laws of Ashanti, from which the following sections are printed.

" Circuit Judge," or in the absence from Ashanti of the Circuit Judge, " Chief Commissioner."

Chapter 29 (12 of 1892).	The Criminal Code (added by 7 of 1925, sec. 3).	(4) The application of the code shall not operate to alter the judicial system presently established in Ashanti.

COMMISSIONERS.

ORDINANCE No. 4 OF 1907.

[Now Chapter 4 of the Revised Edition.]

An Ordinance to make better provision with reference to Commissioners in Ashanti.

GENERAL POWERS AND DUTIES OF COMMISSIONERS.

. . . . . .

8. The Police Magistrate, Kumasi, shall be the Sheriff for Ashanti, and every Provincial Commissioner and District Commissioner shall within the Province in which he is stationed be a Deputy Sheriff, and such officers shall, subject to any directions that the Chief Commissioner may give, perform all the duties and exercise all the powers within such areas as aforesaid, with respect to the Courts of the Chief Commissioner and Provincial and District Commissioners as may be performed and exercised by the Sheriff and Deputy Sheriffs respectively in the Gold Coast Colony. (*As substituted by* 2 *of* 1917, *sec.* 2.)

. . . . . .

17.[1] Whenever a person is brought before a District Commissioner charged with an offence beyond the jurisdiction of the District Commissioner he shall hold an investigation concerning the charge, and discharge or commit the accused party for trial.[2]

[1] Sec. 18 in Revised Edition.

[2] The Revised Edition adds "in the Chief Commissioner's Court." (*As amended by* 18 *of* 1920, *sec.* 2.)

(1) In holding such investigation the Commissioner shall follow the procedure prescribed by the provisions of the Criminal Procedure Ordinance of the Gold Coast Colony relative to an investigation of a charge, and the Commissioner may admit the accused person to bail, and bind prosecutor and witnesses to appear at the trial, or imprison such persons if they refuse to enter into recognizances with the provisions of the said Criminal Procedure Ordinance.

Provided that a Commissioner shall not be required to transmit any depositions or statement to the Attorney-General. [So printed in the " Record " for the Judicial Committee. But the Revised Edition has instead of this proviso, the following: " Provided that an authenticated copy of the depositions and the statement of the accused shall be transmitted to the Commissioner of Police instead of to the Attorney-General. (*As amended by* 18 *of* 1920, *sec.* 3.)]

(2) Any deposition taken by the Commissioner or statement by the accused at such an investigation shall be admissible in evidence at the trial in accordance with the provisions of sections 142, 143, and 144[3] of the said Criminal Procedure Ordinance.

(3)[4] If the Commissioner commits the accused for trial for a matter which is beyond the jurisdiction of a Provincial Commissioner he shall commit the accused for trial in the Chief Commissioner's Court. If the Commissioner commits the accused for trial for any offence within the criminal jurisdiction of the Provincial Commissioner as prescribed in section 11 hereof he shall commit such accused for trial in the Court of the Provincial Commissioner. (*Sec.* 17 *as substituted by* 3 *of* 1913, *sec.* 2.)

. . . . . .

[3] 143, 144, and 145 in Revised Edition.

[4] This sub-section is omitted from Revised Edition.

Benjamin Knowles.

JUDICATURE.

ORDINANCE No. 9 OF 1919.

[Chapter 12 of the Revised Edition.]

An Ordinance to constitute the Office of Circuit Judge of Ashanti and for purposes connected therewith.

. . . . . .

2. (1) It shall be lawful for the Governor in accordance with instructions received from His Majesty, to appoint by Letters Patent under the Public Seal of the Gold Coast Colony a fit and proper person, who shall be called the Circuit Judge, to be during His Majesty's pleasure a Judge of Ashanti.

(2) Whenever the office of Circuit Judge shall become vacant by death or otherwise, it shall be lawful for the Governor, pending the assumption of duty by the successor of the former Circuit Judge, by Letters Patent under the Public Seal of the Gold Coast Colony to appoint during his the Governor's pleasure another fit and proper person to act as Circuit Judge.

(3) Whenever the Circuit Judge shall be absent from Ashanti, or shall by reason of illness or any other cause be incapacitated or prevented from fulfilling the duties of his office, then and in any such case it shall be lawful for the Governor, if he shall so think fit, by Letters Patent under the Public Seal of the Gold Coast Colony to appoint a fit and proper person to act as Circuit Judge during his the Governor's pleasure; so that however no appointment under this subsection shall extend beyond the time when the Circuit Judge himself shall have resumed the duties of his office.

(4) Except where the context otherwise requires, the expression "Circuit Judge" in this or in any other Ordinance shall be deemed to include any judge appointed under any provision of this section.

3. The Circuit Judge shall have and may exercise all the

judicial powers and jurisdiction which in respect of criminal causes and matters were immediately prior to the commencement hereof vested in the Chief Commissioner.

. . . . . .

5. The Circuit Judge may hold sittings of the Chief Commissioner's Court at such times and at such places within Ashanti as such Judge shall appoint.

. . . . . .

THE LAWS OF THE GOLD COAST COLONY.

TITLE III.

ADMINISTRATION OF JUSTICE.

CHAPTER 7.[5]

SUPREME COURT.

An Ordinance for the Constitution of a Supreme Court and for other purposes relating to the Administration of Justice.

. . . . . .

JURISDICTION AND LAW.

14. The common law, the doctrines of equity, and the statutes of general application which were in force in England at the date when the Colony obtained a local legislature, that is to say, on the 24th July, 1874, shall be in force within the jurisdiction of this Court.

15. The jurisdiction by this Ordinance vested in the Supreme Court shall be exercised (so far as regards procedure and practice) in the manner provided by this and the Criminal Procedure Ordinance, or by such rules and orders of Court as may be made pursuant to this Ordinance.

. . . . . .

17. All Imperial Laws declared to extend or apply to the Colony or the jurisdiction of the Court shall be in force so far only as the limits of the local jurisdiction and local circumstances permit, and subject to any existing or future Ordinances of the Colonial Legislature; and for the purpose of facilitating the application of the said Imperial Laws, it

[5] Now chapter 158 of Revised Edition.

shall be lawful for the Court to construe the same with such verbal alterations, not affecting the substance, as may be necessary to render the same applicable to the Matter before the Court; and every Judge or officer of the Supreme Court having or exercising functions of the like kind, or analogous to the functions of any Judge or officer referred to in any such law, shall be deemed to be within the meaning of the enactments thereof relating to such last-mentioned Judge or officer; and whenever the Great Seal or any other seal is mentioned in any such statute it shall be read as if the seal of the Supreme Court was substituted therefor; and in matters of practice all documents may be written on ordinary paper notwithstanding any practice or directions as to printing or engrossing on vellum, parchment, or otherwise.

. . . . . .

SITTINGS AND DISTRIBUTION OF BUSINESS.

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23. For the more convenient despatch of business, Divisional Courts of the Supreme Court shall be holden in each province, and every such Divisional Court may, subject to the power of transference hereinafter enacted exercise all or any part of the original jurisdiction, civil and criminal, vested in [or for the time being capable of being exercised in such province by[6]] the Supreme Court. If necessary, several Divisional Courts may be held concurrently in the same province. A Divisional Court of the Supreme Court shall be fully constituted by any one of the Judges thereof, but may consist of two Judges. Any Puisne Judge assigned by the Chief Justice to exercise jurisdiction in any province shall be qualified and empowered to sit in any Divisional Court of such province. The Chief Justice shall be at all times qualified to sit in any Divisional Court in any province. Whenever two Judges shall sit in a Divisional Court the Senior Judge according to the order of their precedence under this Ordinance shall have two votes in case of difference of opinion. (*As amended by* 25 *of* 1918, *sec.* 2 (2).)

[6] Omitted from Revised Edition.

24. The Governor may from time to time by Order under his hand appoint the places and times at which Divisional Courts shall be held for the trial of criminal and civil causes and the disposal of all other legal business pending. At such sittings (which shall be called the Assizes) all criminal causes shall as far as practicable be tried and determined in priority to any other business.

The Governor may by Order under his hand revoke, alter, or amend any Order made as aforesaid.

In default of any appointment by the Governor as aforesaid Assizes shall be held in each province or place in or at which a Judge is exercising jurisdiction on the first Monday in January, April, July, and October, or if any such Monday be a *dies non* then on the lawful day next following.

Chapter 13.

CRIMINAL PROCEDURE.

[Chapter 31 in the Revised Edition.]

An Ordinance to make provision in relation to Criminal Law and Procedure.

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Preservation of Testimony in Certain Cases.

45.[7] Whenever it appears to any Judge or Commissioner that any person dangerously ill or hurt, and not likely to recover, is able and willing to give material information relating to any indictable offence, and it shall not be practicable to take the deposition in accordance with the provisions of this Ordinance of the person so ill or hurt, such Judge or Commissioner may take in writing the statement on oath or affirmation of such person, and shall subscribe the same, and certify that it contains accurately the whole of the statement made by such person and shall add a statement of his reason for taking the same, and of the date and place when and

[7] Sec. 46 in Revised Edition.

where the same was taken, and shall preserve such statement and file it of record.

46.[8] If the statement relates or is expected to relate to an offence for which any person is under a charge or committed for trial, reasonable notice of the intention to take the same shall be served upon the prosecutor and accused, and if the accused is in custody, he may be brought by the person in whose charge he is, under an order in writing of the Judge or Commissioner, to the place where the statement is to be taken.

47.[9] If the statement relates to an offence for which any person is then or subsequently committed for trial, it shall be transmitted to the Court in which such person is to be tried, and a copy thereof shall be transmitted to the Attorney-General.

48.[1] Such statement so taken may afterwards be used in evidence on the trial of any person accused of an offence to which the same relates, if the person who made the statement be dead, or the Court be satisfied that for any sufficient cause his attendance cannot be procured, and if reasonable notice of the intention to take such statement was served upon the person (whether prosecutor or accused) against whom it is proposed to be read in evidence, and he had or might have had if he had chosen to be present full opportunity of cross-examining the person making the same.

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Part 3.[2]—Matters Preliminary to Trial upon Information.

Information in What Cases.

69.[3] Every criminal cause, which is not heard and deter-

[8] Sec. 47 in Revised Edition.
[9] Sec. 48 in Revised Edition.
[1] Sec. 49 in Revised Edition.
[2] Part 4 in Revised Edition.
[3] Sec. 70 in Revised Edition.

mined by summary trial in the manner provided in the second part[4] of this Ordinance shall be tried in the Supreme Court upon an information, signed by the Attorney-General or by some person thereunto by law enabled or in that behalf duly authorised under the provisions of the next succeeding section; and every such information shall be as valid and effectual in all respects as an indictment presented by a grand jury. (*As substituted by* 18 *of* 1918, *sec.* 2.)

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PART 4.[5]—TRIAL UPON INFORMATION ARRAIGNMENT.

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113.[6] Every prisoner upon being arraigned upon or charged with any information by pleading generally thereto the plea of "not guilty" shall, without further form, be deemed to have put himself upon the country for trial, and in any plea of *autrefois convict* or *autrefois acquit* it shall be sufficient for any prisoner to state that he has been lawfully convicted or acquitted (as the case may be) of the said offence charged in the information.

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MODE OF TRIAL.

115.[7] The Governor in Council may, from time to time, provide by Order for appropriating any offence or class of offences not punishable by death to be tried with a jury, and may alter, revoke, or amend any such Order. Such Orders may apply to trials taking place in particular districts or places, or generally throughout the jurisdiction of the Court and any person charged with an offence directed by any such Order to be tried with a jury shall be so tried accordingly; provided that if any person so charged shall, at any time before he pleads to such charge at the trial elect to be tried

[4] Part 3 in Revised Edition.
[5] Part 5 in Revised Edition.
[6] Sec. 114 in Revised Edition.
[7] Sec. 116 in Revised Edition.

by the Court with assessors, he shall, unless the Judge of the Court for which the trial is appointed (for reasons stated in the minutes) directs otherwise, be tried by the Court with assessors; And provided further that, if the Attorney-General shall be of opinion that a more fair and impartial trial of any person so charged who has been committed for trial, can be obtained by such person being tried by the Court with assessors, he may make an application to the Judge of the Court for which the trial is appointed for an Order that such person shall be tried by the Court with assessors, and on such Order being made such person shall be tried by the Court with assessors accordingly. (*As amended by* 12 *of* 1916, *sec.* 7.)

116.[8] Any person charged with an offence not capital, and not directed to be tried with a jury under the provisions of the last preceding section, shall be tried by the Court with assessors; provided that the Judge of the Court for which the trial is appointed may (for reasons to be stated on the minutes) direct that the accused shall be tried with a jury.

117.[9] In cases tried with a jury the trial shall be with a jury of seven men who may be common or special jurors.

118.[1] Trials in all cases punishable by death shall be heard before a jury of seven special jurors unless the said number of special jurors are not comprised in the jurors' list for the place where the trial is had, or not obtained when summoned, when the trial may be had with any less number of special jurors, the remainder of the jury being made up of common jurors.

TRIAL WITH A JURY.

119.[2] No person shall be entitled to be tried by a jury *de medietate linguæ*, but if the accused person is not a native of

[8] Sec. 117 in Revised Edition.
[9] Sec. 118 in Revised Edition.
[1] Sec. 119 in Revised Edition.
[2] Sec. 120 in Revised Edition.

the Colony or countries subject to the jurisdiction of the Court, it shall be lawful for the Court, if he thinks fit, to direct that a number not exceeding one-half of the jury, shall be jurors who are not natives of the Colony or the said countries, if so many can be obtained.

120.[3] At the sitting of the Court the names of all the jurors summoned, special or common, shall be written on separate pieces of card or paper of equal size and put into boxes; and whenever a jury is required, the Registrar shall, in open Court, draw from the proper box by lot until the required number of jurors appear, who, after all just causes of challenge allowed, shall remain as fair and indifferent; and the same shall be done whenever it shall be necessary to form a new jury.

Provided that if a case be brought on for trial during the time that a jury in any other case may be deliberating, a new jury may be drawn from the residue of the cards in the box.

121.[4] Whenever there shall be a deficiency of jurors, or when the number of trials before the Court render the attendance of one set of jurors for the whole of any assizes oppressive, it shall be lawful for the Court to issue fresh precepts, if necessary, and, subject to all rights of challenge, to put upon the jury, as common or special jurors, so many men of the bystanders as shall be sufficient to make up the full number thereof, and it shall not be an objection to any such talesman that his name is not upon any jurors' list.

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PART 5.[5]—QUALIFICATIONS AND ATTENDANCE OF JURORS.

178.[6] Every male person between the ages of twenty and sixty years, being of sound mind and not afflicted with deafness, blindness, or other infirmity who is resident within the

[3] Sec. 121 in Revised Edition.
[4] Sec. 122 in Revised Edition.
[5] Part 7 in Revised Edition.
[6] Sec. 179 in Revised Edition.

jurisdiction of the Supreme Court shall be liable to serve as a juror.

Provided that all members of the Executive and Legislative Councils, all salaried functionaries of any foreign government, all persons in the service of Her Majesty while on full pay in such service, all barristers, solicitors, and licensed legal practitioners, whilst in actual practice, all physicians, surgeons, chemists and druggists, and all clergymen, dissenting ministers and schoolmasters, and all masters of vessels and licensed pilots, and all persons employed in any public electric telegraph office, shall be exempted from serving upon any juries, except with their own consent, and that any person attainted or convicted of treason or felony, or any infamous crime (unless he shall have obtained a free pardon) shall be disqualified.[7]

179.[8] The Commissioners of districts shall each year, between the first and thirtieth days of November, or between such other dates as the Chief Justice may authorise, make lists of the persons resident at each town or place within their districts at or near which assizes of the Supreme Court are or shall be held (hereafter referred to as the assize town), who are qualified and fit and of persons resident within the district in which the assize town is situate and within four miles of such town, or within such area as the Governor in Council may by Order published in the " Gazette " specify, to serve as jurors, setting out the name and surname, and the occupation and place of abode of each person, and shall cause a copy of such list to be posted in some conspicuous place in the Court House of the district for the period of three weeks, to the end that any persons may apply to him by notice in writing to have their names added to or struck off such list, upon cause duly assigned in such notice. (*As amended by* 13 *of* 1917, *sec.* 2.)

180.[9] The said Commissioners may require any person re-

[7] Members of Town Councils are also exempted. (Cap. 167, sec. 54.)

[8] Sec. 180 in Revised Edition.

[9] Sec. 181 in Revised Edition.

sident within their districts to give his full name and surname, occupation and place of abode, when required for the purposes of this Ordinance, and any person refusing or neglecting, when required to give such information, shall be liable on conviction, to a fine which may amount to twenty-five pounds.

181.[1] At the end of the time for posting such list the Commissioners shall each hold a public sitting for considering and disposing of all such notices as they shall have then received, and shall then revise and settle the lists by the addition to or taking away of names therefrom, and by correcting any errors as to the names, occupations, or places of abode of any person included therein. The persons named in such notices, and such other persons as the Commissioners may require, shall be bound to attend such sittings.

182.[2] The Commissioners in settling the lists shall mark off such persons as they shall deem suitable, including the native chiefs who are of good repute, to be called and to serve as special jurors and assessors in each district, and shall mark on each list the time at which it shall commence to be used. No person shall be exempted from serving as a common juror by reason of being marked as a special juror or assessor.

183.[3] The Commissioners, upon the lists being so settled, shall send signed copies thereof to the Registrars of the Divisional Courts of the province respectively in which the said districts are included. Each list so prepared and delivered as aforesaid shall constitute the jurors' list for the assize town for which the same has been prepared. (*As amended by* 13 *of* 1917, *sec.* 4.)

184.[4] If at any time in any district there should not be a District Commissioner at the time for making and settling the lists as aforesaid, the Chief Justice may, by an instrument

[1] Sec. 182 in Revised Edition.
[2] Sec. 183 in Revised Edition.
[3] Sec. 184 in Revised Edition.
[4] Sec. 185 in Revised Edition.

under his hand and the seal of the Court, appoint any fit person to be a Commissioner for the purpose of so doing.

185.[5] The lists so prepared and revised shall be again revised once in every year, and the list so revised shall be deemed a new list, and shall be subject to all the rules herein contained as to the list originally prepared.

186.[6] Whenever it shall be necessary to form a panel of jurors to serve at any assizes, the Sheriff shall cause the names of the jurors in the list prepared for the assize town at or near which such assizes are to be held to be written on separate cards or pieces of paper of equal size, and placed in ballot boxes to be kept for that purpose; and shall draw from the said boxes such number of names as the Court may direct of special jurors and assessors and common jurors to form a panel; and the cards or slips so drawn shall thereupon be locked up in separate boxes until the whole of the names in the ballot boxes shall be exhausted by subsequent panels, when all the names of the jurors, except those who may have served at the last preceding assizes, shall be returned to the ballot boxes; and, when required, the names shall be re-drawn in manner aforesaid. (*As amended by* 13 *of* 1917, *sec.* 5.)

187.[7] The names of jurors who shall be dead or permanently resident at a greater distance than four miles from the assize town, if no other area shall have been specified under section 179[8] hereof with respect to such town, and if any such area shall have been so specified, the names of jurors permanently resident outside such area, shall be passed over by the Sheriff in forming a panel. (*As amended by* 13 *of* 1917, *sec.* 6.)

188.[9] Not more than one person employed in the same

[5] Sec. 186 in Revised Edition.
[6] Sec. 187 in Revised Edition.
[7] Sec. 188 in Revised Edition.
[8] Sec. 180 in Revised Edition.
[9] Sec. 189 in Revised Edition.

mercantile establishment shall be required to serve together on any panel at any assizes, unless the business of the Court shall be impeded by adherence to this rule.

189.[1] In the event of any person, liable and suitable to serve as a juror, being found at any assize town or within four miles thereof or within such area as the Governor in Council may have specified under section 179[2] hereof with respect to such assize town after the lists are settled for the year, it shall be lawful for the Commissioner to place the name of such person on the list either as a special or a common juror or assessor, and such person shall be liable to serve as a juror or assessor till a fresh list is brought into force; and whenever any juror or assessor on the list may have become disqualified his name shall be expunged. (*As amended by* 13 *of* 1917, *sec.* 7.)

190.[3] The Sheriff (or the officer executing the office of Sheriff, as the case may be) before the sitting of any Court whereat a jury shall be necessary, shall, on receiving from the Court a precept, issue summonses requiring the attendance thereat of the persons so drawn as aforesaid from the ballot box, and every such summons shall be personally served upon or left at the usual or last known place of abode of the person so summoned two clear days, or, such other time as the Court may direct, before the day appointed for the sitting of the Court.

191.[4] If any of such persons cannot be found, the Sheriff shall obtain so many additional names, drawn in the aforesaid manner, as may be necessary to make up the jurors to the proper number, and shall issue summonses to such persons in like manner.

192.[5] The Sheriff shall cause to be delivered to the Regis-

[1] Sec. 190 in Revised Edition.
[2] Sec. 180 in Revised Edition.
[3] Sec. 191 in Revised Edition.
[4] Sec. 192 in Revised Edition.
[5] Sec. 193 in Revised Edition.

trar a panel containing the names, occupations, and places of abode of the persons so summoned.

193.[6] If assizes shall be held at any place for which a jurors list may not have been prepared under this Ordinance, the Sheriff or Registrar may prepare a temporary jurors list for the purpose of such assizes, and all the provisions of this Ordinance shall, so far as applicable, apply in the case of the persons whose names are entered, whether as common jurors or as special jurors and assessors upon such temporary list.

194.[7] Any person summoned to attend the Court as a juror or assessor who shall not, without reasonable excuse (the burden of proof whereof shall rest on such juror or assessor) duly attend and be present at the Court and at all times appointed by the Court for adjournments, and any person present in Court who being called to serve as a juror, shall, without reasonable excuse, refuse so to serve till discharged by the Court, shall be liable to a fine which may extend to twenty-five pounds.

195.[8] Such punishments may be inflicted summarily on an order to that effect by the Court and any fine imposed shall be recoverable by distress and sale of the moveable and immoveable property of the person fined, by warrant of distress to be signed by the Registrar of the Court, which warrant shall be issued by the Registrar, without further order of the Court, if the amount of fine is not paid within six days of being imposed, if imposed in the presence of the person fined, or within six days of its having come to his knowledge by notice or otherwise that the fine has been imposed if imposed in his absence. In default of the recovery of the fine by such distress and sale, the person fined may be imprisoned for the space of twenty-one days if the fine be not sooner paid: provided always that it shall be lawful for the Court, if it shall deem fit, to remit any fine so imposed.

[6] Sec. 194 in Revised Edition.
[7] Sec. 195 in Revised Edition.
[8] Sec. 196 in Revised Edition.

196.[9] In cases where any person is so fined in his absence the Registrar shall forthwith send him a written notice of the fact, requiring him to pay the fine, or to show cause before the Court within four days for not paying the same.

197.[1] Nothing herein contained shall prevent the Court from exempting any person from serving as a juror or assessor at any assizes, or on any trial, for reasonable cause; a certificate bearing the signature of any medical officer in His Majesty's naval, military or colonial service, or of any qualified physician or surgeon practising as such within the jurisdiction of the Court setting out that any person required to attend as a juror or assessor is unable from the state of his health to do so, may, on the Court being satisfied of the signature to such certificate, be received as *primâ facie* evidence of reasonable cause.

198.[2] All persons declared liable to serve as jurors are liable, when lawfully so required, to serve as jurors on any coroner's inquest, as well as at any assizes of the Supreme Court, within the district for which they shall have been appointed.

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THE CRIMINAL CODE.

Chapter 29.[3]

An Ordinance to establish a Code of Offences Punishable on Summary Conviction and on Information.

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Title 17—Criminal Homicide and Similar Offences.

205. Whoever intentionally and unlawfully causes a maim

[9] Sec. 197 in Revised Edition.
[1] Sec. 198 in Revised Edition.
[2] Sec. 199 in Revised Edition.
[3] Of the Revised Edition, from which the sections following are printed.

or any dangerous harm to any person shall be liable to imprisonment for twenty years.

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227. Whoever commits murder shall be liable to suffer death. . . .

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229. Whoever attempts to commit murder shall be liable to imprisonment for life.

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231. Whoever commits manslaughter by negligence shall be liable to imprisonment for five years; and whoever commits manslaughter in any other case shall be liable to imprisonment for life.

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236. Whoever causes the death of another person by any unlawful harm is guilty of manslaughter. If the harm was negligently caused he is guilty only of manslaughter by negligence.

237. Whoever intentionally causes the death of another is guilty of murder, unless his crime is reduced to manslaughter by reason of such extreme provocation or other matter of partial excuse, as in the next succeeding section is mentioned.

238. A person who intentionally causes the death of another person by unlawful harm shall be deemed to be guilty only of manslaughter and not of murder or attempt to murder, if any of the following matters of extenuation are proved on his behalf, namely:—(1) That he was deprived of the power of self-control by such extreme provocation given by the other person as is mentioned in the next succeeding section.

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239. The following matters may amount to extreme provo-

cation to one person to cause the death of another person, namely:—

(1) An unlawful assault and battery committed upon the accused person by the other person, either in an unlawful fight or otherwise, which is of such a kind, either in respect of its violence or by reason of accompanying words, gestures, or other circumstances of insult or aggravation, as to be likely to deprive a person, being of ordinary character, and being in the circumstances in which the accused person was, of the power of self-control.

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240. (1) Notwithstanding proof on behalf of the accused person of such matter of extreme provocation as in the last preceding section is mentioned, his crime shall not be deemed to be thereby reduced to manslaughter if it appears, either from the evidence given on the part of the prosecutor—

(*a*) That he was not in fact deprived of the power of self-control by the provocation; or

(*b*) That he acted wholly or partly from a previous purpose to cause death or harm or to engage in an unlawful fight, whether or not he would have acted on that purpose at the time or in the manner in which he did act but for the provocation; or

(*c*) That, after the provocation was given and before he did the act which caused the harm, such a time elapsed or such circumstances occurred that a person of ordinary character might have recovered his self-control; or

(*d*) That his act was, in respect either of the instrument or means used and the cruel or other manner in which it was used, greatly in excess of the measure in which a person of ordinary character would have been likely under the circumstances to be deprived of his self-control by the provocation.

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APPENDIX II.

Reprints of Press Comments.

Leading Article in *The Times* of 11th March, 1930.

An Appeal from Ashanti.

Lord Dunedin delivered yesterday the reasons why the Privy Council allowed the appeal of Dr. Knowles last November. Dr. Knowles had been convicted in Ashanti of the murder of his wife; the sentence of death had been commuted by the Governor; and the reasons of the Privy Council for quashing the conviction have been awaited with a good deal of interest since they might have rendered necessary changes in criminal procedure in the Crown Colonies. Dr. Knowles had been tried without a jury, and public opinion in England was inclined at the time to fasten on this feature to the exclusion of other considerations. To be tried by a jury in so grave a matter as murder is a fundamental right in English law, and its denial seemed plainly wrong to people who have no more than the most general ideas about the conditions of life in Ashanti.

But the Privy Council make it seem plain that their decision does not rest upon the denial of a jury. As Mr. Pritt said, in stating the case for Dr. Knowles, the appeal rested "on an accumulation of things done ill rather than on any one striking thing done ill"; and the Privy Council have accepted a number of the contentions of the defence which are special to this case, while refusing to make themselves judges of a matter specifically reserved to the local authorities —namely, the feasibility or otherwise of trial by jury in any particular case in Ashanti. Criminal procedure in Ashanti has to follow procedure in the Gold Coast Colony, says the Ordinance governing it, "so far as it is practicable and local circumstances permit," and the practicability is a matter for decision on the spot. There has never yet been trial by jury in Ashanti, and there are many parts of the Empire where

justice would be very ill served if juries had to be collected from a ludicrously inadequate pool of possible jurors. Where there are very few people, and those few familiar with each other's concerns, the guarantees of competence and impartiality are even better secured by having no jury at all.

In this particular case the judgment of the Circuit Judge is set aside on technical legal grounds, as might after all have happened in this country. Perhaps the most interesting part of the judgment is that in which their lordships give their reasons for feeling empowered to examine the judgment, although they do not sit as an ordinary Court of Criminal Appeal. The general value of this side of the Privy Council's work is plain. The methods of the English Courts are often unsuitable and sometimes quite wide of the mark among the populations of the Crown Colonies. Arrangements that may prove the fairest ninety-nine times may fail the hundredth, and the existence in London of a supreme tribunal with wide competence affords an invaluable means of review and reconsideration.

From the *Daily Telegraph* of 20th November, 1929.

THE CASE OF DR. KNOWLES.

It is with a feeling of sincere relief that the public will have heard of the decision given yesterday by the Judicial Committee of the Privy Council in the case of Dr. Benjamin Knowles. The circumstances in which Dr. Knowles's wife met her death upwards of a year ago, at an up-country station in the Colony of Ashanti, were sufficiently tragic and mysterious to arouse general interest when they became known in this country; but something more than an interest of that nature—a deep concern for the proper administration of justice within the Empire—was felt when certain facts as to Dr. Knowles's conviction on the charge of murder became known. His wife died of a shot wound held, on circumstantial evidence, to have been inflicted by him; her own statement made before death was that the weapon was fired

accidentally by herself. The trial before a Circuit Judge at Kumasi was held in camera; there was no jury; and the prisoner had not the assistance of counsel or other legal representative. Dr. Knowles was found guilty and sentenced to death. The Governor commuted the sentence to life-imprisonment; and there the matter ended so far as concerned the law locally in force, which allows no right of appeal in criminal cases.

But Dr. Knowles's friends proceeded to invoke the special jurisdiction of the Judicial Committee of the Privy Council, which, unless expressly barred by statute, can override such local ordinances if a strong case for that use of the Royal prerogative is made out. Dr. Knowles was granted leave to appeal against his sentence eight months ago; but pecuniary difficulties delayed the hearing until now. Yesterday, the second day of the trial, the five members of the Judicial Committee decided "to advise His Majesty to allow the appeal and to quash the conviction." Since their reasons are to be stated later, it is unknown what considerations weighed most with them in reaching their decision. But the view taken by the public will assuredly be that no man standing in peril of his life ought to be denied legal representation, tried without a jury, and have no such regular right of appeal as is conceded by the law of most civilised communities to-day. If, as the Attorney-General contended, trials without jury are a part of the law of Ashanti, and have been held in "hundreds of cases" on the capital charge itself, most people will agree with Dr. Knowles's leading counsel that "it shows what a shocking state the laws are in," and that the Ordinance of 1902 stands in need of drastic amendment.

From the *Justice of the Peace and Local Government Review*, 15th March, 1930.

THE CASE OF DR. KNOWLES.

The Judicial Committee of the Privy Council has now given judgment in this very important and interesting case.

The state of things it reveals is surprising. Leave to appeal was, in the words of the judgment itself, manifestly granted on the ground that it was against the law for a judge to try a capital case without a jury, but the Judicial Committee found it impossible to sanction that ground of appeal. They held that if trial by jury was not practicable or not permitted by local circumstances, trial without a jury was lawful. "Practicability and the state of local circumstances were questions which could only be determined in Ashanti on the spot. It was impossible for their lordships to form a conclusion on such matters, and it was not for them to turn themselves into a local tribunal."

This, no doubt, is so, but the considerations which bound their lordships as a Court, do not bind the citizen considering the rights of his fellows, and after a careful examination of all the available information, we are of opinion that there is a strong *primâ facie* case for the view that the trial of Dr. Knowles by a jury in Ashanti was practicable and that local circumstances did not stand in the way of his trial by a jury. It is no argument to the contrary that there has never been such a trial in Ashanti.

A correspondent of *The Times*, writing on the 26th November last, pointed out that by the decennial census of 1921, the number of Europeans in Ashanti was 400, and that there was not likely to be fewer in 1928. The trial took place at Kumasi, and the majority of Europeans would be at or near that place.

Even if a jury of seven (the number required by the Gold Coast law, the guiding rule in the case) could not be assembled at Kumasi, there was power under the Ashanti Administration Ordinance to refer the matter to the Supreme Court of the Gold Coast, and this most emphatically ought to have been done.

What was the result of not doing it? An Englishman was tried for his life by a police magistrate, acting as circuit judge, without a jury, and deprived by law of legal assistance of any kind. And the judge misdirected himself.

There was, as the judgment of the Privy Council says, "something which in this particular case deprived the

accused of the substance of fair trial." That is the very foundation of the jurisdiction of the Privy Council to review criminal proceedings, and is so taken in the present case. Counsel for the appellant properly described this as "a shocking state of affairs," and most Englishmen will agree. The reported judicial interjection, "To try a person without a jury would not shock me a bit" was merely a scintilla.

The argument for quashing the conviction on the ground of trial without jury failed. "But the case once brought up it was incumbent on their Lordships to examine the judgment as given." Upon that examination they came to the conclusion that the judge omitted to consider all the possibilities, in effect directing himself that if the death of Mrs. Knowles was not an accident it must have been murder, thus omitting the possibility of manslaughter. One cannot help feeling that their Lordships grasped at this way out of a difficulty brought about by the ill-conduct of the case in Ashanti. Any way out is better than none, and all thoughtful people are relieved that Dr. Knowles succeeded. The one person who acted with entire propriety abroad was the Governor of the Gold Coast, who commuted the capital sentence, and so saved an execution which, on the judgment of the Privy Council, would have been unjustified.

We have all proper respect for that great imperial tribunal, the Judicial Committee, but, although conscious of our temerity, we venture to criticise the wording of their judgment.

It says, "There was no attempt to face the question whether *the standard of proof* required to prove murder as against manslaughter had in that case been reached." Their Lordships were bound to consider whether the evidence reached *the standard of proof* necessary to involve a conviction for murder.

There is only one standard of proof in criminal cases. The evidence should establish guilt beyond reasonable doubt, and that rule applies to a charge of stealing twopence as it applies to treason or murder. No one supposes the eminent judges on the Judicial Committee are not aware of this elementary piece of law. But they have used language which

will fortify the unlearned who suppose that proof more strict is required for murder than for manslaughter. One is bound to assume that what the judges really meant was that, to justify a conviction for murder, proof of facts over and above those necessary to sustain one for manslaughter was necessary. In both there is a killing, but the intent is not the same in both. It was the duty of the Ashanti judge to consider and decide whether the facts were sufficient for manslaughter only, or whether they permitted a sound inference that murder had been committed.

From the *Law Journal*, 15th March, 1930.

CRIMINAL APPEALS FROM COLONIES.

The Judicial Committee of the Privy Council, in their reasoned judgment in the recent case of *Knowles* v. *The King Emperor* (*Times*, March 11), stated once more the grounds on which the Committee will consider Colonial appeals in criminal cases. These grounds were stated broadly in *Dillet's* case (12 A.C. 459). It must be shown that "by a disregard of the forms of legal process or by some violation of the principles of natural justice, or otherwise, substantial and grave injustice has been done." In *Ibrahim's* case, [1914] A.C. 599, 83 L.J. (P.C.) 185, the Court did not go in substance any further than this; but in *Arnold's* case, [1914] A.C. 644, 83 L.J. (P.C.) 299, they went, perhaps, a step further. Lord Shaw of Dunfermline said that the Court "will not interfere unless there has been such an interference with the elementary rights of the accused as has placed him outside the pale of regular law, or unless, within that pale, there has been a violation of the principles of natural justice so demonstratively manifest as to convince their Lordships first that the result arrived at was opposite to the result which their Lordships would themselves have reached, and, secondly, that the same opposite result would have been reached by the local tribunal if the alleged defect or misdirection had been avoided." In *Knowles's* case the

charge was murder, and the defence accident; and for the defence a dying declaration by the appellant's wife, sustaining the plea of accident, was tendered. The local Judge rejected that declaration as a brave effort by a dying woman, and, rejecting accident, found the appellant guilty of murder.

As the learned judge never considered the question whether, excluding accident, the case might be one of manslaughter, the Committee had no difficulty in deciding that the appellant had not had a fair trial. There was certainly enough in the evidence to leave room for a verdict of manslaughter, and the Committee went no further. They did not hold themselves bound to consider whether they would themselves have decided that it was a case of manslaughter, or whether the local Judge must, upon a proper self-direction, have done so; so that the case must be noted as in some degree qualifying the decision in *Arnold's* case. Two things about the trial strike the man in the English street as strange. First, there was no jury; but in the locality a jury is neither required by law nor in fact obtainable. Secondly, a section of the Ashanti Administration Ordinance positively prohibits the employment of a barrister or solicitor in any cause or matter, civil or criminal. There may have been strong reasons in 1902 for this stringent prohibition; indeed, we must assume that it would have been disallowed by His Majesty unless good cause was shown for not exercising the sovereign power of disallowance. But we may venture to suggest that if an advocate of any sort had been permitted to appear for the appellant, he might have suggested to the learned Judge the consideration of an obvious point which certainly deserved notice, and did not receive it.